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CHILD-LABOR BILL

HEARINGS

BEFORE

THE COMMITTEE ON LABOR

HOUSE OF REPRESENTATIVES
SIXTY-FOURTH CONGRESS
FIRST SESSION

ON

H. R. 8234

A BILL TO PREVENT INTERSTATE COMMERCE
IN THE PRODUCTS OF CHILD LABOR,
AND FOR OTHER PURPOSES

JANUARY 10, 11, AND 12, 1916

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WASHINGTON
GOVERNMENT PRINTING OFFICE
1916

COMMITTEE ON LABOR.

HOUSE OF REPRESENTATIVES, SIXTY-FOURTH CONGRESS.

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JOHN G. COOPER, Ohio.
EDWARD E. DENISON, Illinois.
MEYER LONDON, New York.

CHAS. T. CLAYTON, *Clerk.*

CHILD-LABOR BILL.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON LABOR,
Monday, January 10, 1916.

The committee met at 10 o'clock a. m., Hon. David J. Lewis (chairman) presiding.

The CHAIRMAN. This is a hearing on H. R. 8234, introduced by Mr. Keating, of Colorado, to prevent interstate commerce in the products of child labor, and for other purposes. This is the revised bill. Gov. Kitchin, of North Carolina, has a delegation here this morning who desire to be heard on the bill.

Mr. KITCHIN. Do you desire to hear those who oppose the bill first or do you think it would be more regular to hear those who favor it first?

The CHAIRMAN. Whatever the pleasure of the committee is about that matter. I do not know that anybody has asked to be heard, except the opponents of the bill. I think perhaps time would be saved y hearing those who oppose the measure first, so that you may pro- eed, Governor. Only one side has asked to be heard.

Mr. KITCHIN. I will present Mr. David Clark first.

STATEMENT OF MR. DAVID CLARK, OF CHARLOTTE, N. C., EDITOR OF THE SOUTHERN TEXTILE BULLETIN.

The CHAIRMAN. Give the reporter your name, residence, and business, Mr. Clark.

Mr. CLARK. David Clark, Charlotte, N. C., editor and sole owner f the Southern Textile Bulletin, covering the southern textile field.

Mr. KITCHIN. Mr. Clark, tell us what opportunities you have had for knowing the conditions in the cotton mills of the South.

The CHAIRMAN. Governor, it is not the practice before committees o have counsel.

Mr. KITCHIN. All right; go ahead, Mr. Clark.

The CHAIRMAN. Just proceed with your statement of any matters hat you think fairly reflect on the bill before the committee.

Mr. CLARK. My position is that I am in close touch with the textil ndustry of the South, and have been for 16 years, 8 years a cotto manufacturer and 8 years the editor of two publications, and f the last 5 years editor of the present publication, which I ow It has been our desire to have you gentlemen come South and see mills, so that you will understand the situation, and we hope t you will come. I am here to give you any information that you desire, openly and frankly, in regard to the conditions in the S

We do not claim that the conditions are ideal in the cotton-mill industry in the South, but I believe they are better——

The **Chairman** (interposing). Mr. Clark, if you will not take offense, I think you had better talk a little more clearly. It is difficult to understand your statement, speaking so fast.

Mr. **Keating**. Do I understand that you take the position that any Federal child-labor legislation would be unjust to the southern cotton interests and the State of North Carolina particularly?

Mr. **Clark**. I take the position that it is unconstitutional, not that it is unjust. Of course I take the position that this particular bill is unjust.

Mr. **Keating**. Suppose, for the sake of the argument, we leave the question of constitutionality to the Supreme Court of the United States?

Mr. **Clark**. Yes.

Mr. **Keating**. Would you consider any child-labor legislation unjust to the cotton industry of the South?

Mr. **Clark**. No, sir; I would not say unjust, not "any legislation." Of course some legislation would be.

Mr. **Keating**. What kind of legislation would you consider just?

Mr. **Clark**. Any reasonable legislation.

Mr. **Keating**. What would be your definition of reasonable child-labor legislation.

Mr. **Clark**. Legislation prohibiting the working of girls up to 14 and the working of boys up to 14, except between the ages of 12 and 14, when they could work outside of school hours, and prohibiting the working of any under 16 years of age at night. That is my opinion. It is a little contrary to the opinion of some of the cotton manufacturers.

Mr. **Keating**. You believe a bill drafted along that line would not do the cotton industry any injury?

Mr. **Clark**. It would not do the mill people or the cotton industry any injury. But this bill will.

Mr. **Keating**. So that the amount of damage that would be done to the cotton-mill industry by this bill is the difference between the standard that you would set up and the standard which is set up in this bill?

Mr. **Clark**. Yes.

Mr. **Keating**. Now, the bill sets up a standard so far as children in mills are concerned of 14 years for boys and girls. As I understand you, you would have the 14-year limit for girls alone?

Mr. **Clark**. Your bill practically makes it a 16-year limit. Theoretically you make it 14, but practically it is 16.

Mr. **Keating**. The bill fixes 14 years as a limit for boys and girls.

Mr. **Clark**. Well, theoretically, but not practically. In Kentucky a bill of that kind went into effect and the result is that it meant 16 years for both.

Mr. **Keating**. Then your theory is that children between 14 and 16 should work more than eight hours a day?

Mr. **Clark**. Yes, sir.

Mr. **Keating**. You think they should be permitted to work at night under 16?

Mr. **Clark**. No, sir; not under 16.

Mr. Keating. Then, in your opinion, it is unreasonable to work children under 16 at night?

Mr. Clark. Yes, sir; it is not best.

Mr. Keating. It is unreasonable in the South?

Mr. Clark. It is unnecessary. The National Child Labor Association claim that the laws in the South are unreasonable, but they have not shown where any injury has been done, notwithstanding all the statements that have been made.

Mr. London. How many children under the ages of 14 and 16 work more than eight hours a day?

Mr. Clark. All of our laws on the subject allow more than eight hours. Ten hours is the law throughout the South.

Mr. London. But how many children work more than eight hours a day?

Mr. Clark. I have the data here. In South Carolina there are employed 8,450 under 16 years of age.

Mr. London. Under 16 years of age?

Mr. Clark. Yes, sir. That is 16.4 per cent of the total number of employees in the mills. In 1910 there were 20 per cent employed. The tendency is to decrease. In North Carolina alone last year, without any revision of the law, there was a decrease of 836 in the number of children employed. That was the result of a voluntary effort. The tendency all through the South is toward this change.

Mr. Kitchin. I think you may be talking too fast.

Mr. Clark. All right.

Mr. London. Then this legislation is really in harmony with the tendency in your State?

Mr. Clark. I could not say it is in harmony with it, but there is a tendency in that direction.

The Chairman. Now, gentlemen of the committee, would it not be well for Mr. Clark to present to the committee in such form as he might think proper his own views on this subject and then have the individual members of the committee ask him any questions they may care to ask after he is through with his principal statement?

Mr. Keating. I think you are right. The reason I asked the question of Mr. Clark was because I thought he had apparently concluded his statement and invited questions. That was my understanding, but perhaps I was mistaken.

Mr. Clark. I came here more to answer questions. I have no information in continuous form. I have the information on all lines of the subject, and I came here to give you information in answer to any question that you might see fit to ask relative to conditions in the cotton industry of the South.

The Chairman. Mr. Clark, I think the idea of the committee was that you were perhaps possessed of such well-formed views on the subject that in a somewhat succinct way you could present your views concerning the subject matter as a whole; and then if the members of the committee wanted to take up any particular question they could ask you questions.

Mr. Clark. Well, sir; I will be very glad to cover it in any way that you may see fit. The proposition of the National Child Labor Committee is that the cotton mill boys and girls are injured by working in the mills. That is the basis of their claim, as I understand it. They also claim that the second generation is going to show the effect of that injury. Now, as a matter of fact, the second generation of the cotton-mill people in the South are better physically, better looking people, than the first generation that came from the mountains. I have here a few photographs which I desire to pass around among the members of the committee, showing some of the children of the operatives.

Mr. LONDON. Does that apply to both men and women—that they are better looking?

Mr. CLARK. Yes, sir. A number of years ago we had no law that prohibited work of children 8 or 9 years of age. Now, the children of those who worked at 8 or 9 years of age are shown in these pictures. That is the way they are to-day. I want you to look at these pictures so that you can see whether they compare physically with other children in other places.

Mr. KEATING. It is your belief, Mr. Clark, that putting children in the cotton mills in the South when they are 8 or 9 years old and subjecting them to the rigorous treatment there, performing a day's work, will not have any bad effect upon the children?

Mr. CLARK. I did not state that.

Mr. KEATING. Well, according to your pictures, you would demonstrate, without any statement from you, using the pictures as evidence, that the working of children in the past in the South at so early an age as 8 or 9 years, would not have a bad effect upon those children?

Mr. CLARK. No, sir; because of the fact that before they came to the mills they had worked on the farms, where they had worked longer and harder hours.

Mr. KEATING. Do you mean to say that before they went to work in the mills they had served an apprenticeship on the farm?

Mr. CLARK. No; I mean the parents of those children had worked on the farms before they came there to the mills.

Mr. KEATING. Then your idea is that the parents having worked on the farms and having secured an excellent constitution in that way, their children are able to endure the work in the mills?

Mr. CLARK. No, sir. My theory is that the work in the mills is not as hard or as injurious as the work on the farms. The promoters of this bill have not the nerve to include the farms or even to refer to the farms. They let goods come into this country from Germany, Japan, and England manufactured by very small children. They let those goods come into the port of New York from Europe, and yet they say you can not bring these goods from North Carolina.

Mr. KEATING. I think you will be a little surprised at the nerve that some of us might have along the line that you suggest.

Mr. CLARK. Well, sir, I would be very glad to hear of it.

Mr. KEATING. But that is not the question before the committee to-day. The proposition that we are considering is whether this bill will injuriously affect the cotton industry of the South.

Mr. COOPER, of Ohio. Do I understand that the people in the South have been working children 8 and 9 years of age in the cotton mills?

Mr. CLARK. Not for a number of years.

Mr. NOLAN. How many years?

Mr. Clark. Twelve or 15 years at least. The lowest age limit in North Carolina to-day is 12 years for children working in an apprentice capacity.

Mr. Cooper of Ohio. What provision do you make for the education of the children that are sent into the mills?

Mr. Clark. The mills have the best facilities for the education of the children in the South because they provide their own schools. The cotton-mill men of South Carolina a number of years ago went on record for 14 years as an age limit, provided that the legislature would provide a system of compulsory education.

Mr. Cooper of Ohio. Why, it seems hardly possible, when I look back on my little boy 8 years of age, to think that they had children of his age and size working in the cotton mills.

Mr. Clark. Well, you formerly had in Massachusetts a similar condition. It is only a matter of a different degree of progress.

Mr. Keating. You say they had children of 8 or 9 years of age working in the cotton mills 10 or 12 years ago?

Mr. Clark. I think it was about 1898. The law went into effect about that time. If you talk about the cotton mills, why not consider the canning industry? I have recently read a report on the canning industry, and I notice that in 1907 children were working at 5 years of age.

Mr. Keating. You would not approve of that law, of course?

Mr. Clark. No, sir; I just noticed the report on the canning industry.

Mr. Houston. Where was that?

Mr. Clark. In California and Maryland, both.

Mr. Keating. This bill covers canneries also.

Mr. Clark. Yes, sir. But there is another thing—it does not cover newspapers. You let newsboys sell newspapers. I guess the ability of papers to effect public sentiment is the cause of that.

Mr. Keating. Possibly it is, but newsboys are not engaged in interstate commerce.

Mr. Clark. But newspapers go into interstate commerce, do they not?

Mr. Keating. Oh, yes.

Mr. Clark. I would like to have the committee look at these pictures of children of the mill people.

Mr. Nolan. These are children at play, are they not?

Mr. Clark. Yes, sir; they are children at play. The picture which you have in your hand show children at school; they are out with the teacher. Those are children of mill people. You hear a great deal about the violation of laws in our State. Mr. Swift, who is here to-day, says that there have been violations of the law, but he does not say where the law is being violated. About all you hear down at Greensboro, according to Mr. Swift, is that the mills are violating the law, but it is a secret where they are violating the law. The cotton manufacturers have gone on record as saying that if violations of the law are going on they should be stopped.

Mr. Keating. Now, Mr. Clark, in order that we may get down to the basis of the opposition to this bill which is now before the committee, will you tell the committee what you would consider a just law and let us see in what particular it differs from this bill?

Mr. Clark. Yes.

Mr. KEATING. You have suggested that the employment of girls under the age of 14 be prohibited?

Mr. CLARK. Yes, sir.

Mr. KEATING. And the employment of boys under 12. Is that your idea?

Mr. CLARK. Prohibit the employment of boys between the ages of 12 and 14 except outside of school hours. I think a boy under 14 ought not to be allowed to work during the school term. He is entitled to have an education.

Mr. KEATING. So that for nine months in the year, or at least during the school term, the limit should be 14 years for both boys and girls?

Mr. CLARK. It would be about eight months. A boy would work four months in the year and go to school eight months.

Mr. KEATING. Does the school term in North Carolina consist of four months?

Mr. CLARK. No, sir. It runs, in most of the mill districts, from October to May, eight months. A boy would be in school for eight months, and during the four months' vacation he could work in the mills.

Mr. KEATING. And what is your idea of the hours of labor?

Mr. CLARK. Ten hours.

Mr. KEATING. Your idea is that children should be worked for 10 hours a day in the mills?

Mr. CLARK. Yes, sir.

Mr. KEATING. How about night work?

Mr. CLARK. I do not think they should work girls or boys, either, under 16 years, at night. That, however, is my own personal opinion on the matter.

Mr. KEATING. So that on the night proposition you agree with the standard set up by the bill before the committee; you agree that that standard is a reasonable one?

Mr. CLARK. Yes, sir.

Mr. KEATING. This bill provides that they can not be employed at night if they are under 16.

Mr. CLARK. Yes, sir; I think that is your provision.

Mr. KEATING. You think that would be a reasonable provision.

Mr. CLARK. Yes, sir.

Mr. CLARK. Yes, sir. Now, here is a picture showing a group of girls who have been working at night for four years. I would like you to see this picture. These are all photographs.

Mr. KEATING. You do not mean to suggest to this committee that you would recommend night work for girls as a means of building up physique for young women?

Mr. CLARK. No. That is the reason I took the 16-year position.

Mr. KEATING. Then you consider the 16-year provision for night work reasonable?

Mr. CLARK. Yes, sir. You understand, however, that in all of this I still take the position that it is unconstitutional.

Mr. KEATING. I understand, but I mean as a question of policy.

Mr. CLARK. Yes, sir.

Mr. KEATING. A 16-year limit for night work is reasonable?

Mr. CLARK. Yes, sir.

Mr. KEATING. And a 10-hour day would be your idea of the proper length of a working day?

Mr. CLARK. Yes, sir.

Mr. KEATING. Well, this bill provides for an eight-hour day.

Mr. CLARK. Yes, sir.

Mr. KEATING. And under certain conditions you believe that a 14-year limit for boys and girls, for seven or eight months in the year, would be all right?

Mr. CLARK. Yes, sir.

Mr. KEATING. That would be during the school period?

Mr. CLARK. Yes, sir; for work out of the school period during vacation.

Mr. KEATING. Well, this bill provides for a 12-months prohibition of employment of children under 14.

Mr. CLARK. No. Theoretically it is 14, but practically it is 16. You can not get around that. That is how it will work out. That was the experience in Kentucky under a similar law.

Mr. KEATING. Under your theory, how many children would be affected by the difference between your standard and the standard as set up in this bill?

Mr. CLARK. Probably about 10,000.

Mr. KEATING. There are 10,000 children between the ages of 12 and 16 years working in the mills in the South? Is that your theory or have you any detailed figures?

Mr. CLARK. There are approximately 25,000 under 16 working in the mills now.

Mr. KEATING. In what States?

Mr. CLARK. In the Southern States; for instance, Virginia——

Mr. KEATING (interposing). Have you the detailed figures?

Mr. CLARK. Yes, sir.

Mr. KEATING. Will you furnish them?

Mr. CLARK. Yes, sir. I have the figures from the North Carolina and South Carolina reports.

Mr. KEATING. And you base your estimate of the other States upon reports on those two States?

Mr. CLARK. Yes, sir. The cotton mills are practically similar in the various cotton States.

Mr. KEATING. And there are 25,000 boys and girls employed in the mills of the South between the ages of 12 and 16?

Mr. CLARK. Yes, sir; and there are probably 10,000 under 14.

Mr. KEATING. Are they white children?

Mr. CLARK. They are all white children, with very few exceptions.

Mr. KEATING. All white?

Mr. CLARK. Yes; practically all. In the testimony which Mr. Swift gave before your committee two years ago there was some intimation that we preferred white children because they were more skillful. As a matter of fact, the negro can not be made a cotton-mill employee, and Mr. Swift knows that as well as I do. There is no question about the skill or anything like that. Every effort to use the negro, except in draying and hauling, has proven a failure. His characteristics are such that he can not be made a cotton-mill operative.

Mr. KEATING. So that the legislation, if passed, would affect white children exclusively?

Mr. CLARK. Yes, sir; practically so. There are very few colored children employed in the mills unless for the purpose of scrubbing floors and work of that kind. They are all native white children; none are foreign.

Mr. KEATING. Suppose it was shown to this committee that the practically unanimous opinion of the experts who have studied the matter in southern and western communities is that night work for children under 16 is very dangerous and damaging to their health, and that it is unwise to employ children under 14 years of age in mills, or under 16 years of age in quarries—which is practically the standard set up by this bill—and suppose it could be shown to this committee by the best experts in the country that these standards are improved so far as the northern and western sections of the country are concerned, have you any reason to advance why the same conditions should not prevail in the South as prevail in the North and West?

Mr. CLARK. I do not admit that they have been improved.

Mr. KEATING. But for the sake of the argument, assuming that they have been improved, is there any material difference between the conditions in the North and South, so far as the employment of children is concerned?

Mr. CLARK. Well, the climatic conditions are different, of course. Our experience, being right among these people and seeing them for many years, is such——

Mr. KEATING (interposing). Now, in what particular do you consider that climatic conditions would affect the employment of children in the mines, cotton mills, or quarries in the South?

Mr. CLARK. I do not know much about the mines. We have a very few mines. My opinion is based upon actual experience, seeing the operators and living with them. For a number of years I took my meals with them.

Mr. KEATING. In the North the people would not be exposed to weather conditions in the mills.

Mr. CLARK. But they have the windows open. In the South you do not have the rigor of the winter that you have in the North, and the investigation by the Massachusetts State Board of Health, under the direction of Dr. Safford, has just been completed, the subject under investigation being the question of whether the millwork injures boys. I tried to get a copy of the report, which was to have been printed by the first of this year and, while I could not secure a copy of the report, I was able to get some advance information regarding it. I know that Dr. Safford stated, after investigating two mills in New England and making a very thorough examination of the boys working in the mills, that he found the boys in excellent condition in certain mills.

Mr. NOLAN. What is the age limit in the State or Massachusetts?

Mr. CLARK. Fourteen years, I think. I am not sure.

Mr. HOUSTON. I notice that the young women in this picture which you have handed around appear to be about 18 years of age. How many were employed in the factory where that picture was taken?

Mr. CLARK. All of them were.

Mr. HOUSTON. I mean how many others were employed besides those shown in the picture?

Mr. CLARK. Those are the night girls. That is all of the night girls.

Mr. HOUSTON. Is that all of them?

Mr. Clark. Yes, sir.

Mr. Houston. They work at night?

Mr. Clark. Yes, sir.

Mr. Van Dyke. How long have they been working at night?

Mr. Clark. I should say on an average four or five years. The night operative is in a distinct class from the day operative.

Mr. Houston. They are girls?

Mr. Clark. Yes, sir. Well, they have boys and girls.

Mr. Houston. Where do the girls work?

Mr. Clark. The work of the girls, especially the work of the younger girls, is in the spinning room. Their work is not so continuous or so hard as other classes of work. A girl in a sweatshop has to lean over a sewing machine all day, working under a strain, whereas the girl in the spinning room works at the spinning frame and the boy comes in and doffs the bobbin; that is, picks the bobbins off and takes them away and waits until he is called to take the bobbins off again. The work of boys and girls under 14 and under 16 in the South is very light. That is one reason why we would be glad to have you come down there and see for yourselves exactly what the conditions are.

Mr. Houston. How many hours do the girls work at night?

Mr. Clark. Ten hours.

Mr. Houston. The whole service is night service?

Mr. Clark. Yes, sir. They work five nights in the week and get paid for six days.

Mr. Smith. They work five nights out of seven?

Mr. Clark. Yes.

Mr. Nolan. Mr. Clark, from the looks of these girls in this photograph this legislation would affect but a very few of them, so far as the girls in that picture are concerned.

Mr. Clark. No, sir.

Mr. Nolan. They are considerably over the age limit.

Mr. Clark. Yes, sir.

Mr. Keating. You say that this legislation will put 25,000 boys and girls out of employment in the mills of the South.

Mr. Clark. Practically so.

Mr. Keating. Now, it would be necessary for the mill owners to employ substitutes for those 25,000 employees.

Mr. Clark. Yes, sir.

Mr. Keating. And they would be compelled to employ adults.

Mr. Clark. They would have to employ operatives over 16; yes.

Mr. Keating. Now, in what particular would the mill owner be injured? Would he be compelled to pay higher wages?

Mr. Clark. The mill itself would not be so greatly injured. The operative is going to feel it more than the mill. The greatest opposition to this bill is from the operatives.

Mr. Keating. Then, as I understand you, you are not speaking in behalf of the owners of the mills, but on behalf of those who work in the mills.

Mr. Clark. I am speaking on behalf of both of them. I deal with both of them. As editor of the Textile Bulletin I come in contact with both the owners and operatives.

Mr. Keating. But you do not feel that it would injure the mills?

Mr. CLARK. Well, it would injure them to some extent, because naturally they will have to reorganize their employees and it will injure them for a while.

Mr. KEATING. The principal thought is to safeguard the interest of the children?

Mr. CLARK. It is not a question of safeguarding interests. The mill people need employment, and what are you going to offer them? They have not money enough to seek education. What are you going to do for them when you turn them out of the mills?

Mr. KEATING. Of course, that is a question that I do not expect to answer. I merely wanted to get at the motives of those who are opposing this legislation. I wanted to make it clear whether they were antagonizing this legislation on the ground that it would injure the business interests of the South, or whether they thought this legislation would oppress the children who are employed in the mills.

Mr. CLARK. It will injure the business interests to a certain extent and also turn out of employment a large class of people who need employment.

Mr. KITCHIN. Mr. Chairman, I would like to make a short statement.

The CHAIRMAN. All right, Governor.

STATEMENT OF HON. WILLIAM WALTON KITCHIN, FORMER GOVERNOR OF NORTH CAROLINA.

Mr. KITCHIN. Mr. Chairman, if the committee will permit me to state this, since I am not permitted to ask questions of the witness: I represent the executive committee of the southern cotton manufacturers, and if you will allow me I will state the view that I wish to urge, and I hope the committee will develop from the witnesses the facts to support it. Their position is this: That this would do the mills great damage, and I will tell you why. Now, I am waiving the constitutionality of it, because I take it that the committee, which is composed largely of lawyers, I understand, will desire to hear that question discussed very fully; I am preparing a brief upon that point that I wish to submit to the committee and argue the question of the constitutionality of this legislation. Waiving that point, the position of the mill owners is this: That this legislation would do the mills great damage because it would disorganize labor. A great many of the tenants would probably have to vacate their homes and look for others. We recognize the fact that if this committee deems it advisable and desirable, and think that it is constitutional, they will pass this bill, just as they might pass a bill to prohibit the transportation of any product made by persons working more than six, seven, or eight hours a day. It therefore comes down to this point, as applicable to the men that I represent here: We insist that the children of the South, many of them, must labor. It is not a question of desire upon their part. It is a question of necessity. They must work. There are orphans, children of widows, and dependents who must work in order to live. Now, how to exclude them is a question for the State, because that class should be excluded from the operation of a law of this kind. But if you say that a child under 14 or under 16 must work—and you can not deny it if you are acquainted with southern conditions—then we insist that a cotton mill pays him more wages than he can get anywhere else in the South; that the conditions under which he works are better than those of any other industry—I do not except farms; that his educational opportunities and religious opportunities are equal, if not superior, to those he can get anywhere else; that he lives in a better home, has better clothing and better food in 99 cases out of 100 than he had before his parents came to the mill, or than he would have if he was driven from the mills by this bill.

Now, those are the cold facts surrounding conditions under which the child works—wages, health, sanitation, etc. Then we insist that the mills themselves have shown a greater interest in the development and improvement of the conditions of labor than this Congress can ever show. We propose to show by witnesses that in the last 20 years there has been almost a revolution in the mill conditions in the Southern States. We want you to consider that in the last 15 years these same Southern States have greatly improved their labor laws. They are not yet what we want, but the States have been making such rapid progress that they are now in touch with the situation and know the conditions, and the people of North Carolina are just as humane—North Carolina, South Carolina, Mississippi, Alabama, and Georgia—and think just as much of those children as any member of this committee. They are making such rapid progress that we think this committee ought to be encouraged to leave this matter to the States themselves.

Now, those are the main facts that we want to develop here and bring before the committee. I think if you will bear in mind the conditions in which these people were when they came from the mountains and the condition in which they are now you will see that there has been a great deal of progress.

Mr. Cooper. Can you tell me how many of the children that work in the cotton mills down there have their parents working in the same establishment?

Mr. Kitchin. I can not; but I know that is the case in some instances.

Mr. Cooper. I want to understand the reason for putting these children into the cotton mills down there if they have parents.

Mr. Kitchin. Well, to give you one concrete instance, I once knew a gentleman in my county, Parshing County, named Monday, several years ago. He was a strong healthy man. He lived on the land of one J. A. Long. His name was Hance Monday. He died suddenly and left a widow and several little children. His wife could not plow and none of the children was able to plow. The widow and children could not make a living on the farm any longer. Nobody would hire them, because they could not work on the farm. The family moved down to Roxboro, 4 or 5 miles away, and went into the cotton mill. I never saw them afterwards, but I understood indirectly that they have all been well and are living happily at Roxboro. That is one instance that I know of where they are in better condition in the mills than on the farm.

Mr. Keating. What is the percentage of the male employees that have their children working with them in the mills?

Mr. Kitchin. I could not tell you. We have a law to this effect: That there grew up a habit of some of the men moving to the mills and working their children in the mills while they were loafing. In Roxboro we indicted some of the loafers around there and broke up that condition. We have laws against vagrancy in North Carolina which are very vigorously enforced. There is no mill owner in the State who wants a male loafer loafing around the mill.

Mr. KEATING. That is a very pathetic case, but there are similar cases throughout the country.

Mr. KITCHIN. It is a peculiar condition.

Mr. KEATING. Now, you do not consider that it is peculiar to the South?

Mr. KITCHIN. No, sir; I do not.

Mr. KEATING. For instance, men are dying all over the country and leaving widows and orphans.

Mr. KITCHIN. And that is the objection that has been raised to an ironclad rule.

Mr. KEATING. But the same objection would apply to every State where men die and leave widows with children who are not able to support themselves.

Mr. KITCHIN. That is true, to a greater or less extent, but I think that if the cotton mill furnishes an opportunity for light and remunerative work for the children, it has a vast preponderance over every other class of work along that line.

Mr. KEATING. You think that would apply all over the States all over the country?

Mr. KITCHIN. Yes, sir. It is true that in States where they have no cotton mills they could possibly eke out a miserable existence on the farm. The cotton mill furnishes an excellent opportunity for that class of people. Children 12 and 14 years old can do just as good work as a 30-year old man with the work he is doing, and help take care of the family. I think that is a blessing.

Mr. KEATING. I am not misstating your contention when I say that in your judgment it is a mistake for any State to enact legislation of this kind?

Mr. KITCHIN. No, sir; I say that the States are right there on the ground and understand the conditions, and each State has enacted various kinds of legislation according to the varying conditions of their people.

Mr. KEATING. But as to the general proposition you feel that the child should be permitted to go into the cotton mill at an early age and support a family?

Mr. KITCHIN. In cases of necessity, yes, sir. Now, the wisdom of the legislature may put an ironclad rule against it. I think it is cruel to drive a 14 or 15 year old boy out of the mill unless he has an opportunity for some other profitable work.

Mr. KEATING. The conditions that apply in North Carolina will apply in other States, will they not?

Mr. KITCHEN. I take it so, in the other Southern States.

Mr. KEATING. Well, is there any reason why it could not apply to Northern States? A widow needs food and clothing just as much in the North as in the South.

Mr. KITCHIN. Oh, in a Northern or Western State if a widow has several little children under 14 or 15 and no means of supporting them, I think a cotton mill would be a blessing to her if her 14-year old boy was prepared to do the work.

Mr. Cooper. We have that condition in Ohio. There are many widows with children, and we have a 16-year law there, which I think is a very good law.

Mr. Kitchin. It may be on account of the wealth of your State.

Mr. Cooper. We have what is known as a mother's pension law there.

Mr. Kitchin. Well, that is a good thing.

Mr. Cooper. These women are looked after in case they have no other means to keep their children.

Mr. Kitchen. That is a good law, but our States in the South are peculiarly situated because they have not the per capita wealth that the other States have. Of course, that is attributable to a condition that originated a generation ago. Now, let me cite you a little instance. On the first of January the Associated Press sent out a dispatch from Boston in which they stated that out of a school district which had 2,000 or 2,500 scholars, 125 of them went every day out upon the dump heaps and acted as scavengers, standing around in the ashes and eating garbage out of the garbage cans right there in Boston. Now, if Boston can not take care of all of her children you ought not to expect the South to do it. It has not had as many years of prosperity as the Northern States. Now, those children were eating out of the garbage cans. Some committee had investigated it very fully and made a report on it. If those children had an opportunity to work in the cotton mills they would not be hanging around garbage cans. There is nothing of that kind around the cotton mills that I have ever heard of.

Mr. Cooper. I have seen that condition exist in my own city of of Youngstown, one of the largest manufacturing cities in the United States—in fact, it is the second largest iron and steel industrial city in the world. Many a time when I have been coming from work at night I have had a little fellow stop me and say, "Mister will you please let me have a piece out of your bucket?" Now, I know that that little fellow had parents working and making fair money. Probably the case that you cite in Boston, Mass., is the same thing. There may have been some reason why they were not getting enough to eat.

Mr. Kitchin. I do not know the reason, but I recall the article which was sent out. A committee was appointed to investigate it.

Mr. Cooper. Does not that condition exist chiefly in foreign sections?

Mr. Kitchin. I do not know.

Mr. Keating. It seems to me that there were stories in the papers about adults walking the streets of New York and Boston seeking employment.

Mr. Kitchin. Well, that is true. I take it that there was some reason for it. The point is that if a cotton mill is really the best place for those people to work who are compelled to work, is it wise to drive them out if they are getting better wages in the mill? Now, of course, that is aside from the constitutionality which I certainly hope you gentlemen will let us argue. We want to argue the legal questions later.

The Chairman (Mr. Watson in the chair). Governor, I understood you to refer to this committee as being largely composed of lawyers?

Mr. Kitchin. Yes, sir.

The Chairman. Well, only a small number of us are lawyers.

Mr. Kitchin. Well, sir, we are all sworn to support the Constitution.

Mr. Keating. What we lack in numbers we make up in quality. [Laughter.] A few moments ago Mr. Clark spoke about conditions in Massachusetts. Mr. Clark, you said that some report had been submitted as to whether or not factory work was injurious to boys?

STATEMENT OF MR. DAVID CLARK—Continued.

Mr. Clark. I said it had been compiled and that I got an advance statement on one portion of it.

Mr. Keating. Is it not a fact that there is now an 8-hour law in Massachusetts and that no one under 14 years is allowed to work in factories?

Mr. Clark. I think there is a 54-hour law in Massachusetts, or a 9-hour day. It has not been in effect such a great length of time.

Mr. Nolan. You have brought here a number of pictures of children of cotton-mill operatives. Those are all children at play?

Mr. Clark. Yes, sir.

Mr. Nolan. Have you any pictures of the children at work, between the ages of 12 and 16, in general groups?

Mr. Clark. Here is a photograph of some that have worked.

Mr. Nolan. No; those are above the age and would not be affected by this legislation. Have you any pictures of those who are working now between those ages?

Mr. Clark. I have a group of eight working in a mill.

Mr. Nolan. But you have no picture of groups from the mills where children who may be affected are working?

Mr. Clark. No, sir; but we would be mighty glad to have you come down there and see them.

Mr. Nolan. You referred to an examination being conducted in Massachusetts as to the health of the children?

Mr. Clark. Yes, sir.

Mr. Nolan. What steps have been taken in the South to safeguard the condition of the children in the country and find out to what extent cotton-mill work has an affect upon children?

Mr. Clark. We have not been making an investigation, but practically every mill has physicians or women whose business it is to look after the welfare of the children.

Mr. Nolan. What precautions do they take? Do the children undergo a physical examination before they are allowed to go to work?

Mr. Clark. Not generally. In some cases they do.

Mr. Nolan. Do they have any periodical examination of children as to their health?

Mr. Clark. Some of the larger places do.

Mr. Nolan. Do they have reports of their condition?

Mr. Clark. At some of the larger places they do.

Mr. Nolan. How general is that?

Mr. Clark. It is very general in the larger mills. They realize that health has a greater effect on efficiency than anything else. It is largely a business proposition with them when you get down to that. They naturally want the people to be satisfied, and a man or boy in good health can do better work and more efficient work than those who are unhealthy.

Mr. NOLAN. The State has not legislated on that particular subject?

Mr. CLARK. No.

Mr. SUMNERS. I would like to ask a few questions, if I may.

The CHAIRMAN. Well, everybody seems to be firing at the witness.

Mr. SUMNERS. What is the lowest age, as a practical proposition, that you would accept as a limit?

Mr. CLARK. The youngest age for what? For any employment? I would allow a boy to work between 12 and 14 outside of school time. That is the youngest.

Mr. SUMNERS. Have you any statistics showing the number of children working between 12 and 14 in the cotton mills during school time?

Mr. CLARK. No; I have the statistics for the total number working under 16, which is approximately 25,000.

Mr. SUMNERS. During the school term?

Mr. CLARK. Well, the tendency is for them to go to school part of the time and go to the mill between times.

Mr. SUMNERS. Have you any statistics showing how much of the year they work?

Mr. CLARK. No, sir; in North Carolina the law is that between the years of 12 and 13 they can not work in the mills unless they have been in school for four months previously.

Mr. SUMNERS. Four months during that year?

Mr. CLARK. If a child comes to the mill, he can not work under 12, and between 12 and 13 he can not work unless he has been to school for 4 months and shows a certificate to that effect. We put in an optional compulsory education law last year. As a political proposition we have not put in a State-wide compulsory educational system.

Mr. LONDON. I understand that you have 16 per cent of illiterates in your State?

Mr. CLARK. No; it is 12 per cent now.

Mr. LONDON. Do you know anything about the effect of mill work on the children as to illiteracy?

Mr. CLARK. The mill has done more to decrease illiteracy in South Carolina than any other influence.

Mr. LONDON. In what way?

Mr. CLARK. By providing schools.

Mr. LONDON. That is done by the owners of the mills?

Mr. CLARK. Yes, sir.

Mr. KEATING. You said something a moment ago about the enforcement of the child-labor law?

Mr. CLARK. Yes, sir.

Mr. KEATING. Gov. Kitchin, when he was governor in 1911 and 1912, sent a message to the State legislature urging a rigid inspection of the factories and providing for a sufficient force for inspection work. Do you know what action the legislature took on that recommendation of the governor?

Mr. **Clark**. We have a county inspector or county superintendent, but we have no regular inspection.

Mr. **Keating**. I am speaking of North Carolina.

Mr. **Clark**. No, sir.

Mr. **Keating**. Of course, you are familiar with Gov. Kitchin's recommendation in 1911 or 1912?

Mr. **Clark**. No; I am not familiar with it; but I know that Gov. Kitchin is a very progressive man in his views.

Mr. **Keating**. But you do not know what action the legislature took upon that recommendation?

Mr. **Clark**. Oh, yes.

Mr. **Keating**. What was that action?

Mr. **Clark**. They did not provide any regular factory inspection, except the county superintendent of education.

Mr. **Keating**. Did the mill owners of North Carolina, in the effort to ameliorate the condition of their employees, support Gov. Kitchin in his recommendation?

Mr. **Clark**. I did not favor inspection.

Mr. **Keating**. You did not favor inspection in the State?

Mr. **Clark**. No, sir; I did not.

Mr. **Keating**. Was that because you did not have faith in the State inspectors or because you had a good deal of faith in the mill owners?

Mr. **Clark**. I have no faith in inspections.

Mr. **Keating**. You have no faith in National or State inspection?

Mr. **Clark**. Very little.

Mr. **Keating**. You prefer to leave the enforcement of the law to the mill owners themselves?

Mr. **Clark**. No, sir; I think we are working very well under the present system.

Mr. **Keating**. What is the present system?

Mr. **Clark**. Any violation of the law is reported to the county superintendent of education, and by him to the district solicitors.

Mr. **Keating**. Do you think that when Gov. Kitchin, in his message of 1911, stated to the legislature, "I renew my recommendation of two years ago that factory inspection be provided to insure better enforcement of our law with respect to factory conditions and labor," you feel that the recommendation was not justified and that the legislature was jusified in refusing to act on it?

Mr. **Clark**. I have no doubt that Gov. Kitchin felt justified.

Mr. **Keating**. But you did not?

Mr. **Clark**. No, sir. The gentlemen here to-day do not favor it, at least. Some people favor Government inspection and some do not. Personally I do not, because it is largely a grafter proposition.

Mr. **Smith**. Do they have any factory inspection?

Mr. **Clark**. Yes.

Mr. **London**. What do you mean by a grafting proposition?

Mr. **Clark**. I am not prepared to give you the facts, but my understanding is that if you pay you get a clean bill of health.

Mr. **London**. You believe that your mill owners would resort to corruption in order to escape a fair inspection?

Mr. **Clark**. Not more than any others; not more than was necessary.

Mr. **London**. You mean they would resort to corruption of a Government official?

Mr. Clark. Well, yes; if they were held up.

Mr. London. Well, if the inspector was insisting on compliance with the law, do you think that would be holding them up?

Mr. Clark. Well, if it is to be done by the county superintendent, I would favor it.

Mr. Almon. Mr. Clark, in recent years has there been any improvement in sanitation, such as ventilation, etc., in the cotton factories of the South affecting the health and hygiene of the mill employees; and if so, state in what way improvements have been made and what the conditions of health and hygiene are, both now and, say, 20 years ago? I am speaking particularly of apparatus in the buildings by which they are better ventilated, with less lint and dust.

Mr. Clark. There has been a remarkable change.

Mr. Almon. Just explain what it is.

Mr. Clark. There has been a remarkable change in the mills and in the homes. Of course, they spend more time at home than in any other place. There is a photograph that was taken 25 years ago, and here is one that was taken recently. The latest mill houses have running water, sewerage, and electric light. The mills are ventilated to-day, and every effort is made to protect the health of the employees. It is a business proposition to do that.

Mr. Almon. Have you any method of furnishing fresh air and driving out the hot, stale air, and sprinkling or dampening to ameliorate the dust and lint?

Mr. Clark. Many mills to-day have a self-regulating ventilating system which keeps them at a certain temperature all the time. The tendency is to do everything for the comfort and safety of the employees.

Mr. Almon. State what, if any, improvements have been made in a general way in the educational facilities, so far as the mill operatives and children are concerned, in reference to the erection of schoolhouses and the maintenance of schools by the employees and the operators, and what is being done along this line now as compared with, say, 20 years ago? What change, if any, has been made?

Mr. Clark. There is practically no mill to-day without a schoolhouse, either operated in conjunction with the mill or otherwise. The school facilities in the South to-day are such that a great many rural communities are running no schools. A night school is a very irregular proposition. In some places it is popular and in other places it is a failure. I know in one place they opened a night school, and the first night there were six teachers and one pupil in attendance.

Mr. Keating. All of the pupils who expected to go to that school worked 12 hours in the factory that day?

Mr. Clark. Those above the legal age worked on the basis of 10 hours a day. Ten hours a day is the longest that anybody can work.

Mr. Keating. But the children had worked 10 hours?

Mr. Clark. Yes.

Mr. Keating. And then they failed to show up at the night school?

Mr. Clark. Well, the night school is not so much for the children as it is for the adults.

Mr. Keating. Where do the children go?

Mr. Clark. To the day school.

Mr. Keating. How can they, if they work all day in the mills?

Mr. Clark. They go when they desire.

Mr. Keating. How can they go?

Mr. Clark. The parents send them out.

Mr. Keating. How can they do that and work 10 hours a day in the mills?

Mr. Clark. They do not do it above the age of 12 except during the vacation period of the school year. During the rest of the term they should send them to the school.

Mr. Van Dyke. Do I understand you to say that a child's education should cease at 14?

Mr. Clark. No, sir; I think it should be optional after that time. I think the parents are pretty well capable of taking care of the children, and they have the right to look after their education. That has been the law of the world.

Mr. Sumners. If you leave the question of education to the judgment of the parents after they are 14 years of age, why not leave it to them all the time, and if you do not leave it to them all the time, why leave it to them any time?

Mr. Clark. When these people come from the mountains they do not believe in education. That is the reason we do not have compulsory education in North Carolina, because the isolated mountain districts would go Republican if we forced compulsory education on them.

Mr. Smith. I do not think that many of their Republicans are up this way.

Mr. Clark. We have one.

Mr. Nolan. In other words, they do not make much of a show in Congress?

Mr. Smith. Let me ask you a question, if you please. The purpose of the bill is to exclude children under 14?

Mr. Clark. Nominally, yes; but practically, no. It really makes it 16 instead of 14.

Mr. Smith. Will you tell me the difference between the wages of children under 14 and children under 16?

Mr. Clark. There is very little difference.

Mr. Smith. Then you could employ, for the same wages, children under 14 and children under 16?

Mr. Clark. Yes, sir; the difference is very slight. Of course, if you make a radical change there would be a disorganization for some time.

Mr. Smith. Well, your mills would not be hampered in their work if they had to employ children a couple of years older than they are now employing?

Mr. Clark. They would be hampered for some time.

Mr. Sumners. How long would it take you to adjust yourself to the change?

Mr. Clark. Some mills would take a longer time and some would take a shorter time. Any bill that may be passed ought to give the mills time to adjust themselves to new conditions. A bill ought not to go into effect immediately after its passage. I should think that two years, at the least, would be a fair length of time to give the mill owners an opportunity to meet the changed conditions.

Mr. **Keating.** Mr. Chairman, I feel that I have taken up a good deal of the time of the witness and he probably desires to make some definite statement of facts.

Mr. **Watson.** Have all the members of the committee asked the questions that they desire?

Mr. **Dennison.** Is the labor employed in your State, generally or particularly, organized?

Mr. **Clark.** It is not organized at all in my State.

Mr. **Dennison.** There is no organized labor in your State?

Mr. **Clark.** The relations between the mill owners and the operatives in the South are different from anywhere else in the country.

Mr. **Dennison.** There is no organization?

Mr. **Clark.** There is no reason to organize, because they know each other personally and are friendly.

Mr. **Dennison.** Yes. I was not going into the reasons, Mr. Clark.

Mr. **Clark.** No; there is no organization in my State at all.

Mr. **Dennison.** Then you do not have a labor organization in your State?

Mr. **Clark.** Not in North Carolina.

Mr. **Dennison.** So that labor has no method of expressing itself as a body in your State, has it?

Mr. **Clark.** They have a pretty good effect at the polls on election day, politically.

Mr. **Dennison.** No; I mean as a body. You have no organization?

Mr. **Clark.** No; they have no organization.

Mr. **Dennison.** We have no way of knowing what the attitude of the laboring people is upon this subject?

Mr. **Clark.** Yes, sir; you have.

Mr. **Dennison.** How?

Mr. **Clark.** Petitions have been filed with the southern Congressmen containing many thousands of names opposed to this legislation, signed by the mill operatives themselves. They were given the opportunity to vote in favor of or against this legislation. I have not seen more than one or two names against the bill. The operatives are opposed to this bill.

Mr. **London.** Do you mean the children or the adults?

Mr. **Clark.** The adults, of course. I do not know of any children signing the petitions.

Mr. **London.** How many children signed the petitions?

Mr. **Clark.** I say I do not know.

Mr. **London.** You do not know whether any of them signed it?

Mr. **Clark.** There may have been a few.

Mr. **Keating.** You stated that this bill provides a 16-year limit for children working in the mills?

Mr. **Clark.** Yes, sir.

Mr. **Keating.** On what do you base that statement?

Mr. **Clark.** Because you can not work a part of them 8 hours and the balance of them 10 hours.

Mr. **Keating.** Then your statement that this bill establishes a 16-year limit is based upon the proposition that it limits the hours of work of children between 14 and 16 to 8 hours a day——

Mr. **Clark** (interposing). I do not quite get your question.

Mr. **Keating.** I say that your reason for stating that a 16-year limit is fixed in this bill is because the bill provides that children between the 14 and 16 shall not be worked more than 8 hours a day in the mills?

Mr. CLARK. Yes, sir; and also based on Kentucky's experience along the same line.

Mr. KEATING. And you work your children 10 hours a day?

Mr. CLARK. Yes, sir.

Mr. KEATING. Are you familiar with the fact that in a great many States, particularly in Massachusetts, an 8-hour law has been passed and is being enforced.

Mr. CLARK. I do not know of that.

Mr. KEATING. Do you know anything about the Massachusetts law?

Mr. CLARK. I understand it is a 54-hour law.

Mr. KEATING. You have not made any investigation as to how it is operating in Massachusetts? You could not tell the committee of its effect in Massachusetts?

Mr. CLARK. I know that one superintendent told me that he hid children in roving cans from the inspectors when they came through.

Mr. KEATING. You mean he had violated the law?

Mr. CLARK. Yes, sir.

Mr. KEATING. Would you mind giving the name of that man to the committee?

Mr. CLARK. I would not care to give his name.

Mr. NOLAN. You say the petitions were filed with southern Congressmen as a result of this vote?

Mr. CLARK. Yes, sir; there was a ballot with spaces to vote on one side or the other.

Mr. NOLAN. Who gave them the ballots?

Mr. CLARK. The mill men in some cases.

Mr. NOLAN. Were they compelled to put their names down?

Mr. CLARK. No, sir; it was optional.

Mr. NOLAN. Were they supposed to put their names down on the ballots?

Mr. CLARK. Yes, sir; it was passed around among them.

Mr. NOLAN. But the way they voted was an open proposition?

Mr. CLARK. Yes, sir.

Mr. NOLAN. And there was nothing secret about it?

Mr. CLARK. No, sir.

Mr. NOLAN. A man or woman could not vote so that the result of the vote would not be known?

Mr. NOLAN. No, sir.

Mr. KEATING. These petitions were signed at the mills?

Mr. CLARK. I think so. They might have been signed at home.

Mr. KEATING. Did the owners of the mills know that the employees were opposed to it?

Mr. CLARK. I think so.

Mr. KEATING. So that when the mill owner asked the operative to put his signature on the ballot, he understood that the operative was opposed to it?

Mr. CLARK. Yes; but I want you to understand that the mill owner does not control the vote down there, which is illustrated in the election of Gov. Blease, of South Carolina.

Mr. KEATING. Did the employee know when he was asked to sign the paper that his employer, who presented the petition to him or whose representative presented it to him, wanted him to sign the petition, and if he did not sign the petition his employer would know that he refused to sign it?

Mr. CLARK. That might possibly be so, but it would not, except in a very few cases, affect his signature.

Mr. KEATING. But in a great majority of cases the mill owner would know how the operative voted, would he not?

Mr. CLARK. Well, in many cases it was probably signed in the presence of the overseers.

Mr. WATSON. Do you think that is a fair proposition?

Mr. CLARK. I do not see how it could be any fairer. You can not coerce the mill employees. It would go the other way if you tried.

Mr. NOLAN. In voting in your State elections down there, does the voter have to go in and sign his name or is there a secret ballot?

Mr. CLARK. He is seen when he votes. There is nothing secret about it.

Mr. NOLAN. But does he have the opportunity of going in and marking the ballot without signing his name?

Mr. CLARK. Yes, sir.

Mr. NOLAN. Then, it is a secret ballot?

Mr. CLARK. Oh, no; it is no secret. We see him write his name.

Mr. NOLAN. I am speaking of election. You did not give the mill operatives the same privilege that they have at elections.

Mr. CLARK. Not in the same way, because it was impossible to do that. We were not holding an election.

Mr. NOLAN. You state that the question of compulsory education in North Carolina is a political question?

Mr. CLARK. It is optional; yes.

Mr. NOLAN. What do you mean by a political question?

Mr. CLARK. Well, the State is Democratic—most of it—and our western counties are largely isolated communities. Those people are on the balance of power, and if we put on a State-wide system of compulsory edcation it would swing the balance the other way, because people of the isolated rural sections do not want compulsory education.

Mr. NOLAN. Do you not think you are giving a mighty lot of consideration to the minority down there?

Mr. CLARK. If it will make them the majority; yes, sir. They have been in the majority in our tenth district. We often elect a Republican Congressman from there. We have one in this Congress.

Mr. COOPER. You people in North Carolina blame your condition on the Republicans?

Mr. CLARK. Oh, no; they blame it on a certain class of people who live in the mountains.

Mr. NOLAN. They do not want to educate the Democrats, because they are afraid that they might vote the Republican ticket if they were educated. [Laughter.]

Mr. CLARK. They vote the Democratic ticket now. If you force on them compulsory education, they might change around and vote the other way for spite.

Mr. WATSON. Mr. Clark, have you concluded all you desire to say upon this bill?

Mr. CLARK. You hear a great deal about the matter of accidents in the cotton mills. The children work in very well-lighted rooms, and it is very rare that there is any injury to those employed in the mills. The best evidence that accidents are rare are the reduced rates charged by accident and liability insurance companies for mill employees. They charge a certain rate for different kinds of employment. For instance, a street car employer pay $4.80 per $100 of pay roll. It work down to 68 cents for farm labor and 49½ cents for cotton-mill operatives. In other words, they insure cotton-mill employers against accidents to their employees for less rates than they will insure planing-mill, street-car, and farm employees. I think that is the best evidence to disprove the theory that there are a great many accidents resulting in the killing of children in the cotton mills. There was a picture recently run by the Universal Film Co. called "The Blood of the Children," showing children falling down at work in the mills and having hemorrhages. Of course, that is not the situation. I expect to-morrow to put on a tuberculosis expert who has investigated the conditions in the textile plants. I would like to call your attention to the Metropolitan Life Insurance Co.'s figures on tuberculosis in the different occupations. The figures for employees over 15 years of age in various occupations show that the percentage is 22 per cent for textile workers, as against 34 per cent for printers and 46 per cent for clerks, etc. The percentage for textile mill workers, as you see, is only 22 per cent. There is very little tuberculosis now in the cotton mills; not as much as in other communities. The health conditions are better in the mills. Tuberculosis depends a great deal on how people feed and the living conditions of the workers.

Mr. SMITH. But they do not have child-labor saloon keepers there, do they?

Mr. CLARK. These figures for tuberculosis cover all classes of employees of 15 years and over.

Mr. SMITH. But we are investigating child labor and you are giving figures for adults there.

Mr. CLARK. But these people worked before they were 15, and the tuberculosis would not have developed at once. This bill does not touch the farmers, although there is more danger of accident on the farms, and children work longer hours and under worse living conditions. A very significant matter to be considered is insanity statistics. At the State sanitarium, at Milledgeville, Ga., in 1910 there were 20 cotton-mill employees who came into the sanitarium, which is an insane asylum, against 450 from the farms. Those figures have particularly prevailed for the last five years. In the last five years a total of 117 came from the cotton mills, against 2,586 from the farms. Now, if mill labor is so hard and hurts the children, it should show in insanity.

Mr. HOUSTON. Do your figures show to what extent the injuries in the cotton mills compare with injuries in farm work?

Mr. CLARK. No, sir; but it is 117 against 2,586 for insanity. That is one comparison.

Mr. HOUSTON. But you ought to have the percentage of insanity in the farm population, and the percentage of insanity in the cotton mills.

Mr. SUMNERS. Well, I suppose you fire them from the cotton mills when you find them going crazy.

Mr. Clark. In Morganton, N. C., 6 came in from the cotton mills and 92 from the farms in two years.

Mr. London. In other words, the work in the cotton mills does not involve as much of a mental strain?

Mr. Clark. Practically none.

Mr. Maher. What are the monthly wages of children employed in the cotton mills?

Mr. Clark. Of course, you can not employ them under 13 except out of school time. The Department of Commerce figures show that spinners got 95 cents in 1910. That is a very low wage to-day.

Mr. Maher. I am not speaking about spinners. I am speaking about children 12 years old.

Mr. Clark. Well, those are the spinners and doffers. The girls spin and the boys doff. Doffing is removing the bobbins.

Mr. Maher. I know what doffing is.

Mr. Clark. There are very few now who can get under 90 cents.

Mr. Maher. Is that 90 cents a day?

Mr. Clark. Ninety cents a day. That is a very low wage now. It used to be about 45 cents for doffers in 1898, but since that time wages have gone up remarkably. I have figures covering the period from 1904 to 1914.

Mr. Maher. Children of 12 years of age get 90 cents a day?

Mr. Clark. Yes, sir; and they go up above that. I have the tariff board figures, the Department of Commerce figures, and the figures obtained by comparison in a Georgia cotton mill.

Mr. Houston. I wish you would give those figures.

Mr. Watson. Just give them to the reporter and they will go in the hearing.

The December, 1914, report of M. L. Shipman, commissioner of labor for North Carolina, gives the wages paid in North Carolina cotton mills as follows:

High average daily wage for males, $2.80; low average, 97 cents.

High average daily wage for females, $1.48; low average 82 cents.

The report does not distinguish between children and adults.

The report of the United States Department of Commerce issued under date of May 11, 1914, gives in detail the wages paid in Southern cotton mills, and I take the following figures for North Carolina from same:

	Per day.
Spinners	$0.95
Slasher tenders	1.50
Drawing-frame hands	.99
Card hands	1.17
Speeder hands	1.50
Loom fixers	1.68
Weavers	1.46

The report of the Tariff Board issued in 1912 (p. 647) gives the average wages of operatives in the southern cotton mills from which they compiled data, as follows:

	Per day.
Picker hands	$0.993
Card hands	1.028
Drawing-frame hands	.925
Slubber tenders	1.374
Speed tenders	1.38
Spinners	1.04
Doffers (time workers)	.836
Doffers (pieceworkers)	1.159
Weavers	1.469
Loom fixers	1.692

The ——— Cotton Mills, ———, Ga., have furnished me a comparison of the actual weekly earnings of operatives that worked full time in 1894, 1904, and 1914. It is a table of much value, as it shows that mill operatives' wages have more than doubled in the last 20 years.

Comparative wages and percentages for the first week in May, 1894–1904, and 1914, as shown by pay roll of cotton mill:

	1894	1904	1914	Percentages of increase.		
				1894–1904	1904–1914	1894–1914
Carding:						
Overseer	15.00	24.00	30.00	60	25	100
Section hand	6.60	9.60	13.50	45	40	106
Grinders	6.00	7.50	10.50	25	40	75
Card hands	2.40	4.50	7.50	87	66	213
Drawing	2.40	3.00	6.00	25	100	150
Slubbers	5.10	6.00	8.10	17	35	59
Speeders	4.45	6.00	9.90	34	65	122
Picker hands	3.30	4.80	7.50	45	57	127
Strippers	3.30	4.50	7.50	36	66	127
Spinning:						
Overseer	15.00	18.00	30.00	20	66	100
Section hand	9.00	9.00	13.50	....	50	50
Spinners	1.80	2.40	6.80	33	183	277
Doffers	1.80	3.00	9.60	66	220	433
Sweepers	1.20	3.00	5.25	150	75	337
Section hands	6.00	7.50	10.50	25	40	75
Weaving:						
Overseer	15.00	21.00	36.00	40	71	140
Section hand	9.00	10.50	15.00	16	43	66
Loom fixers	9.00	9.00	12.00	....	33	33
Piece weavers	4.30	6.40	12.00	49	87	179
Day weavers	3.60	5.10	9.00	41	76	150
Yard hands	3.30	6.00	7.50	92	25	127

Mr. Clark. Now, in regard to family wages, before I appeared before the Commission on Industrial Relations, I went to a mill and obtained from the books the wages of several operatives' families. I have them here, with the names left out. In one family three boys, between the ages of 14 and 22, and a girl of 17 worked in the mills. The father runs a truck garden. That family had an income of $42.78 a week.

Mr. Maher. How many in that family worked in the mills?

Mr. Clark. Four. In another family four girls and one boy worked in the mills. The father was working as a roving hauler, and that family had a weekly income of $47.94.

Mr. Maher. Did the father work in the mill?

Mr. Clark. Yes, sir.

Mr. Maher. Could you give us any information as to what percentage of the men working in the mills have their children also working in the mills?

Mr. Clark. Well, it is hard to give an exact percentage. There used to be a lot of fathers who put their children into the mills while they loafed.

Mr. Maher. The opinion prevails in some States that the wages are so low for the adults that they are compelled to put their children in the mills.

Mr. Clark. Well, the wages there do not seem to be so low.

Mr. Maher. Forty dollars a week is considered a good average wage for a good mechanic in some parts of the country.

Mr. Clark. You hear a good deal about the minimum wage for girls in New England. It is said that they can not live on $7 a week. Our girls work for $9 a week and their board averages $3 to $3.50 a week. According to these figures, which I have here and which I will put in the record, one family made $42.78, another made $47.94, and another $40.50 a week. That is the family income.

Mr. Maher. What did the man himself earn out of that $47—the man that worked in the mill?

Mr. Clark. He got about $1 or $1.20 a day.

Mr. Maher. It would not be possible for him to keep his family on $1.20 a day.

Mr. Clark. One of the children was 14; the ages ran from 14 to 20. The third family made $40.50. The average earnings of families of three operators in a Georgia mill was $25.50 a week, and, considering the cost of living in the South, that is a very good income.

Mr. Smith. Do they work by the piece or by the hour?

Mr. Clark. The spinners work in the spinning room by the day and not by the hour. Weaving is almost entirely by the piece, so much for a cut of cloth.

Mr. Smith. Labor in the North is nearly all by the hour.

Mr. Clark. I will put in the record the statement regarding family wages.

FAMILY WAGES.

Realizing that the total income of mill families would have a considerable bearing on the wage question, I went on last Saturday to the ——— Mills, ———, N. C., and obtained data relative to several of their best families. I secured the wage figures from the pay roll of the previous week.

—— family: Three boys between ages of 14 and 22, one girl of 17. Father runs a truck garden. Mother keeps house. Boys work in weaving and slashing rooms and make $1, $2, and $2.50 per day, respectively. Girl works in the spinning room and makes $1.63 per day. Total weekly income of family, not including profit of father's truck garden, which also helps to feed them, $42.78.

——— family: Four girls between the ages of 14 and 20, and one doffer boy. Father works as roving hauler. Mother does not work. Three of the girls work in the spinning room and two of them make $1.50 per day while the other makes $1.46 per day. The other girl in the spooler room makes $1.63 per day. Doffer boy makes 90 cents, and the father $1 per day. Total weekly family income $47.94.

——— family: Two girls between 14 and 19 years of age, a boy 17 and the father. Mother does not work. The three children are weavers, paid by piecework, and average slightly over $10 per week each. The father is a loom fixer and makes $10.50. Total weekly family income $40.50.

These are what might be called "top-notch" incomes, but there are many families making the same, and they are in reach of most of the other families of equal size, as wages are largely based upon piecework.

A georgia mill has taken from their roll the earnings of families of three workers only and find the average to be $25.50 per week. This is more than $100 per month for small families and is better than in most of the other lines of work.

Mr. Clark. I thought it would be of interest to the committee to know the number of mills in the South, the approximate number of employees, and other statistical data. I will put the table in the record.

Southern cotton mills.

Number of mills (July 1, 1915)	765
Capital stock	$225,000,000
Number of spindles	13,476,197
Number of looms	264,046
Consume bales of cotton	3,000,000
Output valued at	$300,000,000
Number of employees (approximately)	175,000
Number of children under 16 years	25,000
Number under 14 years	8,000
Number of employees according to 1910 census	143,000

If you take the dependents into consideration it will amount to about 400,000 people. That is about all the information that I wanted to file with the committee.

Mr. KEATING. Have you any figures showing the wages paid to various employees in the South 10 years ago?

Mr. CLARK. Yes, sir; that is in the table which I have put in.

Mr. KEATING. Can you make a comparison between the wages paid at that time and the wages paid to-day?

Mr. CLARK. Yes, sir; the table gives that information.

Mr. KEATING. How much of an increase will be shown?

Mr. CLARK. There is a considerable increase; probably 25 per cent. More than that, I guess.

Mr. KEATING. In some cases it amounts to almost 100 per cent does it not?

Mr. CLARK. Yes.

Mr. ALMON. To what cause do you attribute this increase?

Mr. CLARK. To the natural growth of the mills. The increase in wages has taken place all through the country. I do not know of any place where wages have not increased in the last 10 years. I also call your attention to this fact, that there has been no concerted action, as I said a while ago, no organization among the operatives while this increase has gone into effect.

Mr. KEATING. The point I was trying to make was whether 10 years ago, when this agitation began, there was any justification for the agitation to better the conditions of the child workers of the South. You have submitted some figures here showing that within the last 10 years there has been an increase in the salaries of doffers. As I understand, boys are doffers?

Mr. CLARK. Yes, sir.

Mr. KEATING. Practically 300 per cent.

Mr. CLARK. There has been a remarkable increase in wages.

Mr. KEATING. So there has been a more marked increase or improvement in conditions in the South during the 10 years during which the National Child Labor Committee has carried on its agitation?

Mr. CLARK. There is no question about that, but there is no connection between the two.

Mr. KEATING. There is a difference of opinion on that.

Mr. CLARK. I grant you that—among a few people.

Mr. NOLAN. Mr. Clark, you have made statements here that conditions generally regarding the age of children or hours of labor, sanitation, and practices in the South in the mills have improved considerably in that time?

Mr. CLARK. I say there is no question about there having been an improvement in their condition, a remarkable improvement in the sanitation, and so on.

Mr. NOLAN. So whether it is due to Dr. McKelway and the National Child Labor Committee or not, the conditions prevailing there at that time have improved to some extent since that time. Is that a fact?

Mr. CLARK. Oh, yes, sir.

Mr. ALMON. State whether or not conditions have improved in other businesses, in other industrial plants, as well as the cotton mills all over the South.

Mr. CLARK. That is true; yes, sir. The South was a different proposition in 1900.

Mr. ALMON. In point of character of labor, in point of wages, and also in point of health and sanitation, has it been confined to the cotton-mill business?

Mr. CLARK. No; but it has been more marked in the cotton-mill business. In the furniture industry in High Point, N. C., there has been a great increase.

Mr. KEATING. These figures were not taken in the last three months, were they?

Mr. CLARK. No, sir.

Mr. KEATING. So these are not abnormal figures? These are figures for 1914?

Mr. CLARK. These are figures I filed last May before the Committee on Industrial Relations. There is another point. There was a greater increase from 1894 to 1904, when Dr. McKelway was running a paper down there, and employed women himself.

Mr. KEATING. When the 1904 conditions prevailed, and the National Child Labor Committee began its agitation, then the mill owners of the South admitted that conditions were bad, and should be improved?

Mr. CLARK. Oh, yes; they have always admitted there could be improvement. They have gone after improvement.

Mr. KEATING. Have they appeared before the Legislature of North Carolina, or any other State, and asked for legislation to improve conditions?

Mr. CLARK. The South Carolina millmen appeared before it in 1908, and again in 1914, and asked them to give them compulsory education.

Mr. NOLAN. Now, Mr. Clark, this bill is general in its nature, and it is aimed at all industries in every State in the Union, is it not?

Mr. CLARK. I can not say that. I think it is aimed at the cotton manufacturers in the South.

Mr. NOLAN. How do you account for the fact that a large number of the largest States in the Union have seen fit to legislate, providing for a radical change in conditions, during the prior we are speaking about, from 1904 to 1914?

Mr. CLARK. Different States have had different reasons for different changes. I do not know.

Mr. NOLAN. There is a general tendency, you will admit, throughout this country, to improve conditions under which children work?

Mr. CLARK. There is no question about that.

Mr. NOLAN. There is a general tendency throughout this country to see that children under a certain age are permitted to go to school up to a particular time, so that this bill is not directly aimed at the cotton industries of the South?

Mr. CLARK. Well, there is a difference of opinion on that, as to whether it is or not. I consider it is aimed alone at the cotton mills.

Mr. NOLAN. Do you not know that there is a great agitation throughout this country for this sort of legislation?

Mr. CLARK. For a great deal of change; yes.

Mr. NOLAN. Then it is not a fact that this bill is directly aimed at the cotton-mill interests of the South, and that they alone are the ones that will have to live up to the law.

Mr. CLARK. If the other States have gone ahead and made these changes, what is the necessity for the law?

Mr. NOLAN. Some of the States have done so, but there are a number of States that have not. That is one reason why I say it is not directed at the States of the South. The North is not entirely free. You understand that.

Mr. CLARK. Taking into consideration the fact that in a great many of the States the children are employed, particularly in the canning industries——

Mr. NOLAN. This will cover the canneries, will it not?

Mr. CLARK. I think it does.

Mr. NOLAN. You have made the statement that this bill was directed at the cotton industries of the South. It will affect other industries than the cotton industry, will it not?

Mr. CLARK. In these States you have already got it; they do not carry it out.

Mr. NOLAN. In the canning industries?

Mr. CLARK. In the canning industries, where you have got it, in Maryland and California, you have children employed now.

Mr. NOLAN. It is not enforced in Maryland?

Mr. CLARK. You have a law there, and one of your inspectors testified it was not enforced.

Mr. NOLAN. This bill will not alone affect the canneries, but mines, quarries, and mills?

Mr. CLARK. Not farms.

Mr. NOLAN. And general industry?

Mr. CLARK. Why not farms?

Mr. NOLAN. I am not taking the exception, but I am taking the general rule. I want to get that point straightened out, to my satisfaction at least. This bill is not directly aimed at the cottom-mill industry of the South, as you stated?

Mr. CLARK. Well, it can not be aimed at the States that already have it when those States that already have it have practically the same laws.

Mr. NOLAN. It is not claimed that all States outside of the cotton-mill States have this law?

Mr. CLARK. It affects very few outside of the southern State.

Mr. NOLAN. Of course that can be proved to the satisfaction of the committee by testimony.

Mr. CLARK. I have the laws compiled of each State. I think it affects very few outside of the cotton industries. I do not think there is any question that this is aimed at the cotton industry of the South.

Mr. KEATING. You believe that children are employed now in the canneries in violation of this law?

Mr. CLARK. I do; certainly. It was so testified at the National Child Labor Conference last year by an inspector from Maryland.

Mr. KEATING. If this law was enacted, you believe the Department of Labor would enforce the laws against the canneries as well as the cotton mills?

Mr. CLARK. I think they would be treated as equal.

Mr. KEATING. So it would affect the canneries as well as the cotton manufacturers?

Mr. CLARK. You have those laws there.

Mr. KEATING. It is not enforced. What is the use of having the law unless it is enforced? The law does not affect the canneries unless it is enforced.

Mr. CLARK. I do not know.

The ACTING CHAIRMAN (Mr. Watson). Mr. Clark, are you through?

Mr. CLARK. Yes, sir. I will be glad to answer any questions.

(The witness was thereupon excused.)

Mr. NOLAN. Mr. Chairman, it is going on to 12 o'clock, and there are quite a number of people interested in this measure who want to be heard, and the intention of the committee was to decide after two hours what they would do. I move that the chairman be authorized to ask the privilege of the House to sit during sessions. I think we ought to go along this afternoon and conduct these hearings.

(The motion was agreed to.)

The ACTING CHAIRMAN. I think it must be obvious to all the members of the committee, however interesting the conversations with the gentlement who make the statements may be, that unless we proceed with something like system we are not going to get along. It is plain to my mind that if the members of the committee would take the gentleman in the chair by turn and ask any questions that may be suggested by any remark which the gentleman in the chair has made, we will accomplish more toward getting through and our sessions will not be so protracted. The only thing that occurred to me in the beginning of the hearing to-day was that if the gentlemen who wanted to submit views were instructed to get through and submit them in their own way first, and then, after they concluded their statements, have any member of the committee who wanted to ask any questions he wanted, that perhaps that might save time. Now, then, gentlemen, do I understand that you all authorize me to keep the gentleman who makes a statement from being interrupted by anybody on the committee until he gets through with his statement? If we will do that, I think we can get along better.

Mr. SUMNERS. Has the Chair ascertained from these gentlemen whether or not they have gotten together and selected certain gentlemen from their number to present the matter primarily?

The ACTING CHAIRMAN. I was relying upon Gov. Kitchin to present these gentlemen in whatever order he wanted to. Is that so, Governor?

Mr. KITCHIN. Yes, sir.

STATEMENT OF MR. W. M. SHERARD, SUPERINTENDENT WILLIAMSTON MILLS, WILLIAMSTON, S. C

The CHAIRMAN. Will you state your name, residence, and occupation?

Mr. SHERARD. I am here, Mr. Chairman, to represent the laborers and also the Southern Textile Association, which is composed of laboring men in the textile industry. We wish to be put on the same footing as all other trades and vocations. We feel that this special bill would discriminate against us, because of the fact that our neighbors right across the street are allowed to work any number of hours on the premises where they work. In fact, I have a number of people living in our mill village there whose children are too young, or under 12 years of age for that matter, which is our age limit in South Carolina, and they are permitted to work in any other vocation they want to pursue any number of hours. All that we want to do is this: We feel that this law would be injurious to the operatives of the mill; ten times more so than to the milling interests themselves. So far as the mill is concerned, it would prove temporarily a slight handicap in making the change, but so far as we are concerned that would be a very immaterial change.

Take, for instance, a widow woman, who has two children, we will say, under 14 years of age, but of legal age, as we now employ them, between 12 and 14. Those children can easily make $1 a day each. There are $2 a day for the subsistence of that family. If they are deprived of their work, what are they going to do? What other vocation in life can they follow to make the same wage?

Another thing. The most of us in the mills come from the rural districts. Quite a large number in our section of the country come from the mounds district, come from little hovels and log huts up there, where we have had absolutely no advantages at all. They have come to the mills, where they have every advantage, from the rural districts. The mills have provided excellent homes, good houses, well painted, and a large number of them have sewerage, waterworks, and electric lights, and a number of them are without that equipment, but they are good homes, good comfortable homes, have nice gardens, are sanitary, and are all that could be asked.

Most of the mills, and I can speak authoritatively, in South Carolina, and quite a large number that I know of in North Carolina, Georgia, and Alabama, all that I know of my own knowledge, and others that I can speak of through the knowledge of others, have built large houses for Y. M. C. A's. and Y. W. C. A's.

We have at our mill there now a lady, and I can also speak of several of these gentlemen that I know here that have ladies employed, to look after the welfare work of the village, that is paid for by the mill. She instructs the people about sanitation, about cooking, about sewing, and anything that comes within her line of work.

We have schools, we have a splendidly equipped school, and all of the mills that I know anything about have good schools, and the schools have, relatively speaking, made a great deal more progress in the mills than they have in the rural districts.

They have better sanitation in the homes, too.

Take the mill work. There is no work in the mill that is laborious. You have got to be prompt; you have got to be punctual on the job, except in a few positions, such as doffing and weaving, things of that kind, where we allow them to go out in the yards and play base ball, and do anything they want, between times. Doffers, sweepers, and persons following vocations of that kind, do not work half their time, while they are being paid good wages for it.

We have a night school, and we have people attending that night school who are between 30 and 40 years of age, people who have come from the rural districts, and have had no advantages of that kind, and we are providing for the children that are coming up in the mills now.

The sanitary conditions of the mills are all that could be asked. Everything is in good shape, and all the mills that I know of are thoroughly disinfected every day, and they are clean and healthy, and the average child in the mills through the Piedmont section is in a much better condition, so far as his physical welfare is concerned, than the average child on the farm, or in most any other vocation, and we feel, gentlemen, that in changing this law, in making an effort to change it, we are going to be very, very materially injured in doing this.

I am satisfied that the men that have introduced this bill are just as sincere and just as honest in what they are trying to do as we are in trying to get them not to do it. They feel that we need it, but we, the people that are in the industry and are working for our livelihood, we know what we need, and we would like to be left alone to work out our salvation along that line.

The wages in the mills in South Carolina alone, in the last 22 years have increased from 57 cents each to $1.30 per day, on an average. Our wages average from 75 cents to $4 per day. Of course, the men at $4 per day are foremen and overseers, but the others are all making good salaries, and they live under the very best of conditions, good sanitary homes, good surroundings, good gardens, and good instruction, both moral and religious. They have our physical training there for them; and I notice some of the smaller mills have not got all of these things; but they are living under good conditions; they are doing well; they are providing for their families; and they are making good citizens.

I will state, in case some of the gentlemen should overlook asking, about balloting. A little while ago Mr. Clark stated about getting this petition up. I can not speak largely for the mills, but I can speak for four mills that I am connected with there, that the management of the mill had absolutely nothing in the world to do with the petitions that were gotten up. They got them up, and they sent them to a Congressman that is not representing our district. You can see if the mills had had it in charge whom they would have sent it to. I believe one of the gentlemen over here asked something about balloting on State politics, or something. There is no coercion on the part of the mills. We do not want to know whom they are supporting, and we do not want them to know whom we are supporting. We do not want to have anything to do with their political lives. All that we do is to give them every advantage that we can

STATEMENT OF MR. W. M. SHERARD, SUPERINTE
LIAMSTON MILLS, WILLIAMSTON, S. C

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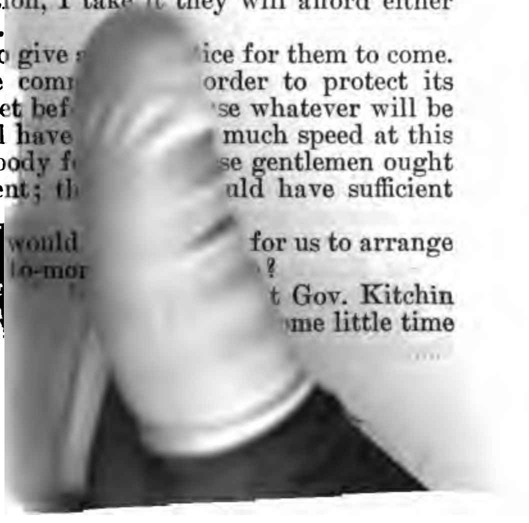

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in a moral way, do everything that we possibly can for sanitation, and everything possible for their education. We provide good churches, and we pay the pastors, or help to pay them, and the medical fraternity are well paid for their work. In fact, at our mill we do not employ a physician, but I know of a number of mills that do employ a physician regularly. We give them every advantage that we possibly can. We have nice halls there, and we have a good band, and we pay the instructor, just for the benefit of the people, to give them pleasure. We run a picture show, and we buy the music and keep up the work there, and we run that without any cost to the people at all, except the small amount of 5 cents for attending, and children under 10 years pay nothing; they go in free.

We have a playground, and everything of that kind, and we are happy and contented, and the living conditions are more than 100 per cent above what they were before we went to the mills, most of us. Some of the people I know were living under good conditions when they came to the mills, but 99 per cent of the people that come to the mills are people that were driven there through loss of a husband, or something of the kind, driven there because they could not make a living on the farms, and they have come there and provided themselves with good furniture, and they have a good table, and if you would go down and look through the mills in the Piedmont section—I had a banker from New York the other day who came down there, and one thing he said was that he could tell every mill employee from the people of the town. Our town is small, and they mingle pretty freely, but every one that he selected was an operative of the mill, and he said that he selected them because of their robust condition, their rosy cheeks, etc.; that he had an idea that those that were sallow complexioned were not employees of the mill.

The conditions, as we find them down there, are much ahead of any other vocation, so far as salaries are concerned, or so far as living conditions are concerned, speaking as a whole, and we would like very much to be left to ourselves to work out these things. We are working, and will be glad to see the time come when we will have compulsory education. We have it optional in our State, but we want to see a State-wide compulsory educational law, where we can provide places for those children to go into, but you must give us time to work up to that point.

I submit, gentlemen, that if you discharge the children at the mills, or at any vocation, under 16 years of age, and let them loaf around on the streets, that the morals of the children are going to be corrupted; there is no question about that, and for the good of the children and for the good of the people we ask you to be kind enough to leave us alone.

I believe that is about all.

Mr. KITCHIN. How long have you been connected with the mills?

Mr. SHERARD. I have been connected with the mills 23 years. I worked through every position in the mill from the card room up to superintendent of the mill. I started in the mill at 20 cents a day.

The ACTING CHAIRMAN. Have you concluded your statement in chief?

Mr. SHERARD. Yes, sir.

Mr. SUMNERS. Mr. Chairman, I move that we take a recess until 2 o'clock this afternoon.

The CHAIRMAN. If that is the sense of the committee, we will take a recess until 2 o'clock this afternoon.

(Whereupon, at 12 o'clock m., the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

(The committee reassembled at 2 o'clock p. m., at the expiration of the recess, Mr. Watson presiding.)

The ACTING CHAIRMAN. Gentlemen, the committee will come to order.

Dr. MCKELWAY. May I ask if there is any idea as to how much time will be taken in these hearings, because, if you need any rebuttal, there are some people I have not notified, to make reply.

The ACTING CHAIRMAN. Governor, how many of your people do you expect to put on the stand?

Mr. KITCHIN. There are three or four men here now, and there are some of the most important witnesses who have wired us they could not be here to-day. One or two of them said they did not know whether they could come this week, or not. We only had notice of this meeting, I believe it was Thursday night that I first had notice, and I want you to hear these witnesses, and we have a doctor who is something of a tuberculosis expert. In fact, he is the head of the North Carolina Tuberculosis Sanitarium, and a man of great ability and experience, that we expect to be here to-morrow, and I think we could get through our witnesses, if we can get the evidence, the witnesses, by to-morrow, anyway.

Dr. MCKELWAY. You spoke of an argument on the constitutionality of the bill that you wanted to submit, Governor. Have you any idea as to when that will come?

Mr. KITCHIN. We want to hear all the evidence, and I would like to have about a day to get it in a little better shape, or I could make the argument here and have it reduced to writing, and amend it afterward, in time. I want to answer the arguments, of course, that were made last year by Mr. Lovejoy and Mr. Lewis from Philadelphia, and give the other side of that proposition.

Dr. MCKELWAY. Those hearings would not be in force this year, I suppose, so it would be necessary that they should be here to answer that.

Mr. KITCHIN. I think they ought to be.

The ACTING CHAIRMAN. If the committee wants to hear argument on both sides of the legal question, I take it they will afford either side an opportunity to be heard.

Dr. MCKELWAY. I will have to give a little notice for them to come.

The ACTING CHAIRMAN. The committee, in order to protect its place on the calendar so as to get before the House whatever will be the result of the work here, will have to make as much speed at this time as possible. I think everybody feels that these gentlemen ought not be cut off in their argument; that they should have sufficient time to deliberate and act.

Mr. KEATING. Mr. Chairman, would it be possible for us to arrange for the constitutional argument to-morrow afternoon?

The ACTING CHAIRMAN. I should judge from what Gov. Kitchin has said that he would want, after the evidence is in, some little time to prepare his argument.

Mr. Kitchin. I think I could be of a little more assistance to you if I could arrange for a little more time to prepare what I have to say. I have looked up all the authorities, but I would like to have more time to prepare my argument.

The Acting Chairman. There will be no trouble about delivering your oral argument here and revising it as you please.

Mr. Kitchin. Then I would be ready to go ahead at any time.

Mr. Keating. I wonder if we could reach an agreement to close the taking of testimony to-morrow afternoon at a certain time. How much time would you require, Doctor?

Dr. McKelway. Not much.

Mr. Keating. If you got an hour and a half to-morrow afternoon, or two hours, would that be enough?

Dr. McKelway. As far as I am concerned. There are some people I would like to bring here from New York and Philadelphia.

The Acting Chairman. Mr. Keating, we will have to cross that bridge when we get to it.

Mr. Keating. I only wanted the doctor to notify his attorney to be here. The doctor is not in position to make the legal argument himself, as the governor is, and he can not afford very well to have his attorney absent.

The Acting Chairman. If you say so, he can wire him to come on here from New York and be prepared to argue after Gov. Kitchin gets through.

Mr. Keating. Suppose we make an arrangement to listen to the legal argument on the proposition at 3 o'clock to-morrow afternoon?

The Acting Chairman. If that is the sense of the committee, it is so ordered.

STATEMENT OF MR. W. M. SHERARD—Continued.

The Acting Chairman. Now, gentlemen, this gentleman on the stand is ready to answer any question that any member of the committee wishes to ask him.

Mr. Keating. Did I understand you to say that you represented an organization composed of the laborers and employees?

Mr. Sherard. I am representing the laborers of the mill and the Southern Textile Association, composed of cotton-mill laborers and representatives of supply houses handling mill supplies.

Mr. Keating. What is the name of the organization?

Mr. Sherard. The Southern Textile Association.

Mr. Keating. And its membership is made up of whom?

Mr. Sherard. Of superintendents, overseers, mechanics, electricians, and salesmen, traveling salesmen handling mill supplies.

Mr. Keating. You do not include the laborers in the mills?

Mr. Sherard. No, sir.

Mr. Keating. You include the more important employees and the traveling salesmen?

Mr. Sherard. Yes, sir.

Mr. Keating. This bill would not affect any of the members of your organization, would it?

Mr. Sherard. Yes; there are a number of them in the organization that have children working in the mills.

Mr. KEATING. Are you a superintendent of the mill?

Mr. SHERARD. Yes, sir.

Mr. KEATING. What mill is that?

Mr. SHERARD. The Williamston Mills, Williamston, S. C.

Mr. KEATING. How many persons are employed in your mills?

Mr. SHERARD. About 350.

Mr. KEATING. How many children under 16 years of age?

Mr. SHERARD. Under 16—I can not say positively. There is something between 30—about 30 to 35 I should say.

Mr. KEATING. Out of 320 employees of the mill, 30 are children between 14 and 16 years of age?

Mr. SHERARD. Between 30 and 40.

Mr. KEATING. Make it 40, so as to be safe. How many of the 40 are boys, and how many girls?

Mr. SHERARD. There are more girls than boys. I think about two-thirds of them are girls.

Mr. KEATING. Twenty-five girls and fifteen boys would be your estimate?

Mr. SHERARD. Yes.

Mr. KEATING. How many of the boys are under 14 years of age?

Mr. SHERARD. I expect three-fourths of those are under 14.

Mr. KEATING. How many of the girls, approximately?

Mr. SHERARD. Between 15 and 20 of them. I can not state. I did not make a note of that data. I know we got a statement up the first of the year for the commissioner of labor in the State, but I can not say positively just what the numbers were, but approximately about as I gave you.

Mr. KEATING. What, in your judgment, would be a reasonable age limit to place on the employment of children in cotton mills? How old do you think a child should be before it is employed in the cotton mills?

Mr. SHERARD. Well, in different States I should say there would be different conditions.

Mr. KEATING. Well, in your own mill?

Mr. SHERARD. Well, I should say that they ought to be; that the limit, if we had compulsory education, ought to be put up to 14 years; but unless we have some place to put those children it would be the wrong thing to do, and I think it ought to be worked out gradually that way. I think we ought to give the people time. The laboring people are not ready for a move of that kind.

Mr. KEATING. Taking your own town, have you school facilities for these 40 children if they should be released from the mills?

Mr. SHERARD. Splendid schools; yes, sir.

Mr. KEATING. So there is a place to put them at the present time?

Mr. SHERARD. Yes; but if they do not want to go, what are you going to do with them?

Mr. KEATING. Are the other children in your own town going to school who are not employed in the mills?

Mr. SHERARD. Some of them are; in fact, most of them are. Most of these would go to school, too; but there are some that you could not make go, and there is no employment for them.

Mr. KEATING. But in the same proportion as the other children in your town?

Mr. SHERARD. Yes.

Mr. KEATING. What proportion of the children in your town go to school?

Mr. SHERARD. Well, nearly all of them.

Mr. KEATING. So that nearly all of these would go to school, too?

Mr. SHERARD. Yes.

Mr. KEATING. So there would not be very many of them out of school as the result of releasing them from working in the mills?

Mr. SHERARD. They would go to school, too, if they were compelled to go. They would have to go somewhere to get employment. The majority of those children that would be put out of school are children of widowed parents, a good many of them, and a good many of them are children where they have large families and the heads of the families are not able to support the family and keep the children at school at that age in life.

Mr. KEATING. How many widows are represented by the children in your factory?

Mr. SHERARD. We only have five in our mill now.

Mr. KEATING. You mean the children of five widows, or widowed mothers are working in your mill?

Mr. SHERARD. Yes, sir.

Mr. KEATING. How many children?

Mr. SHERARD. I say we have from two to five children in the mill.

Mr. KEATING. You have 40 children altogether employed there, and is it your judgment that more than half of them represent widowed mothers?

Mr. SHERARD. Yes—no; not more than half of them, but half of them in our mills under that age are children of widowed mothers. Most of the children that have parents who are able to keep them up, send them to school; they keep them out of the mill until they get as much education as they possibly can.

Mr. KEATING. Did you take part in circulating the petition asking the committee to defeat this bill?

Mr. SHERARD. No, sir; I did not.

Mr. KEATING. Was it circulated in your mill?

Mr. SHERARD. Circulated in the mill village; yes, sir.

Mr. KEATING. Who circulated it?

Mr. SHERARD. One of the weavers, I think. I do not remember. I did not even see it.

Mr. KEATING. Was it circulated in the mill proper?

Mr. SHERARD. No, sir; out in the mill village. It was not in the mill.

Mr. KEATING. Who prepared the petition, do you know?

Mr. SHERARD. No, sir; I do not.

Mr. KEATING. Your organization had nothing to do with it, your mill?

Mr. SHERARD. It had nothing to do with it.

Mr. KEATING. And your organization you represent had nothing to do with the preparation of it?

Mr. SHERARD. Of the paper, no, sir. The paper was gotten up by the people—I mean to say, signed by the people in the village, and was sent to a Congressman who was not representing our district there. They came to me and asked me to get it up, and I told them to draw it up themselves. I had nothing to do with it. They worded it and fixed it up to suit themselves.

Mr. KEATING. If this bill went into effect, and you were compelled to dismiss these 40 children, whom would you employ to take their places, what class of labor?

Mr. SHERARD. We would have to employ children over that age, of course.

Mr. KEATING. Would you be compelled to pay them more for their services?

Mr. SHERARD. No, sir.

Mr. KEATING. Then it would not affect your mill financially?

Mr. SHERARD. It would only temporarily. It might make the help at little bit short. Financially it would be the same thing, because children under 20 years, children who get up to that age make about the same think anyway. The hardship is going to be on the children.

Mr. KEATING. Then it would not interfere with the business interests of your mill?

Mr. SHERARD. Not at all. It would damage the parents of the children very materially in the mill districts.

Mr. KEATING. Those are all the questions I have to ask.

The ACTING CHAIRMAN. Are there any other questions that the gentlemen of the committee wish to ask?

Mr. VAN DYKE. I would like to ask the gentleman one question. You spoke about Y. M. C. A.'s and Y. W. C. A.'s, and public playgrounds, and places of amusement. Do the employees pay anything toward the upkeep of those things?

Mr. SHERARD. No, sir; they are paid for by the mills. Those places of amusement are furnished entirely by the mills, and the operatives are not in any sense at any expense toward the upkeep of those things at all.

Mr. ALMON. Do the mills pay any part of the salaries of the teachers in those night schools?

Mr. SHERARD. They are paid by taxation. They are different from the public schools. We have a separate and distinct building. We have a splendid building for the school there. The superintendent of the graded school has supervision over both schools. The majority of our children in the schools go to the larger school in town in the higher grades. It is only for the convenience of the smaller children that we maintain a school right in the village. The school in the town is not over a quarter of a mile from the mill village. We have a splendid building right in the mill village for the two teachers for the smaller children.

Mr. ALMON. How are the school buildings paid for, and by whom?

Mr. SHERARD. By the mills. The mills erect them themselves. They are a part of the mills.

Mr. ALMON. On the mill grounds?

Mr. SHERARD. Yes, sir; on the mill grounds.

Mr. ALMON. Are the churches and Sunday schools on the mill grounds?

Mr. SHERARD. On the mill grounds; and are paid for by the mills. The children are at no expense whatever in the upkeep of those buildings. They keep nice buildings, in good repair, all at the expense of the mill.

Mr. LONDON. Then the will owners practically determine the character of education the children are to get?

Mr. SHERARD. No, sir; the school-teachers determine that. The county superintendent of education has charge of the schools there, and the teachers are directly responsible to the county superintendent of education. The mills have nothing to do with these schools further than they do everything they can to see that everyting is provided for the children.

Mr. LONDON. They supply all of the money for the support of the school?

Mr. SHERARD. By taxation.

Mr. ALMON. And the salaries of the teachers there are paid by the mill company?

Mr. SHERARD. Yes, sir.

Mr. COOPER. You said you represented certain men in certain crafts in these industries, did you not?

Mr. SHERARD. I stated I represented the Southern Textile Association and the laboring class of mill people.

Mr. COOPER. Then, in answer to a question of Mr. Keating's, you said that this matter really would not concern your men, or it would not concern the organization that you represent, but it would concern the children themselves. Now, do I take it from that that you are up here in the interests of these children?

Mr. SHERARD. I am. I am here representing the laboring class of people in the mill, sir.

Mr. NOLAN. Do I understand you to state that you make a report annually to the State commissioner of labor for South Carolina?

Mr. SHERARD. At the end of the year.

Mr. NOLAN. Is that the law in the State?

Mr. SHERARD. Yes.

Mr. NOLAN. Are those statistics made a record of—of the age of the children employed and the number at a certain age?

Mr. SHERARD. Yes.

Mr. NOLAN. Are they printed annually, and are they available?

Mr. SHERARD. I think so. I think by applying to the State department you could get them.

Mr. NOLAN. You have seen those publications, have you?

Mr. SHERARD. Yes; I have seen them.

Mr. NOLAN. Do they enumerate the number of children at certain ages employed in the different mill companies?

Mr. SHERARD. No; they do not give the statistics in the different mills, but they give them as a whole, in the State.

Mr. NOLAN. I say State wide. They give the number of children at certain ages employed in the cotton industry?

Mr. SHERARD. Yes.

Mr. NOLAN. You stated, as I understood you, that children from 12 to 14 years of age easily earn $1 per day each?

Mr. SHERARD. Some of them more than that.

Mr. NOLAN. Is that the minimum amount of money that they earn or is it the average amount?

Mr. SHERARD. It is the average. They average anywhere from 75 cents to $1.50 per day. Some of them make as much as $1.50 per day. It depends upon the nature of the work they are doing, etc., as to the amount, and it depends upon their capabilities, because most of the work is paid for by piecework.

Mr. Nolan. Are those children that you say earn from 75 cents to $1.50 per day between 12 and 14 years of age?

Mr. Sherard. Yes.

Mr. Sumners. Is the character of your work such that you can employ a part of your children a part of the nonschool-going period and not be greatly discommoded when they start to go to school four months in a year?

Mr. Sherard. Yes; we have always been able to——

Mr. Sumners. How do you manage it?

Mr. Sherard. You see, in working in the mill, for instance, you may have 350 people, and you have 50 hands extra. Some of those people want out every few days. All of them do not work regularly. They want out a good deal of the time, and we have spare hands for any of them that want out. We always keep an extra number of hands and let them out any time they want to be away.

Mr. Sumners. These children that have about four months' schooling each year—do most of them take it at the same time?

Mr. Sherard. Just about the same time.

Mr. Sumners. During what month?

Mr. Sherard. The school runs usually nine months.

Mr. Sumners. During what months do the children take it?

Mr. Sherard. They usually take it from the early part of the term. Some of them put it off to the last, but most of them go to school at one time.

Mr. Sumners. During that time do you have to get extra labor from the outside? I can not quite see how you can keep your surplus of labor balanced that way.

Mr. Sherard. Sometimes we have more labor than we have at others. Sometimes we have to send around to get people to come out and give them work; and then, if they are all in school at one time, you have to shift them around and scatter the work out right to meet the demands for the laborers.

Mr. Sumners. You have the 12-year limit in your country?

Mr. Sherard. It is from 12 years up.

Mr. Sumners. Now, that shows that the people on the ground there, familiar with the situation, recognize that it is not a safe thing to leave it to the parents to determine.

Mr. Sherard. How is that?

Mr. Sumners. Does not the fact that you have a 12-year limit carry with it the recognition on the part of the people who are familiar with the situation that it is not safe to leave that matter to the parents?

Mr. Sherard. Yes; it is safe to leave it with them. They are the ones that are to determine these things when it comes to balance the age limits. They are the ones. About 38 per cent of the votes cast in the State are cast by the people employed in the mills.

Mr. Nolan. I think you stated, in answer to a question by Mr. Keating, that your mill employs in the neighborhood of 320 operatives?

Mr. Sherard. Yes.

Mr. Nolan. About 40 of them would be affected if this bill became law?

Mr. Sherard. Yes.

Mr. Nolan. Would the same thing apply to the cotton mills of the South?

Mr. Sherard. No. A great many mills would take more and some less, but I think the average would be more than that; in fact, I know it would.

Mr. Smith. Do the mill owners furnish those homes for the workers, of which you spoke?

Mr. Sherard. Yes.

Mr. Smith. Do they charge rent?

Mr. Sherard. Yes; they charge rent.

Mr. Smith. That is taken out of their wages?

Mr. Sherard. It depends upon the house; but the rents are graduated from 50 cents a room a month up to $1 a room. It depends upon how the houses are equipped; whether they have electric lights, sewerage, water works, and things of that kind.

Mr. Smith. Do you have a company store?

Mr. Sherard. They do not all have them. Some have them, but there are plenty of other places to trade.

Mr. Smith. Does your mill have a store?

Mr. Sherard. Yes, sir.

Mr. Denison. I understood you to say that you represented the laborers themselves?

Mr. Sherard. Yes, sir.

Mr. Denison. They are not organized, are they, in any sense?

Mr. Sherard. No, sir.

Mr. Denison. Then in what way do you represent them?

Mr. Sherard. They asked me to represent them.

Mr. Denison. How do you mean asked you to represent them.

Mr. Sherard. The families and the Southern Textile Association. The Southern Textile Association covers the entire South, from Virginia to Louisiana.

Mr. Denison. The Southern Textile Association. What is that?

Mr. Sherard. That is composed of men made up of the mill men working in the mill villages, superintendents, overseers, mechanics, electricians; men that have worked there from the bottom of the mill up, and most of them have children in the mills doing work.

Mr. Denison. Yes; but that does not mean the laborers themselves, does it?

Mr. Sherard. Yes; they are all laboring men.

Mr. Denison. Yes; we are all laboring men, in that sense.

Mr. Sherard. But these men are laboring in the cotton mills.

Mr. Keating. Perhaps we can get at it in this way, if you will permit the suggestion, Mr. Denison. You have 320 employees in your mill?

Mr. Sherard. Yes, sir.

Mr. Keating. How many of those employees are members of this association?

Mr. Sherard. There are seven.

Mr. Keating. Seven out of 320?

Mr. Sherard. Yes, sir.

Mr. Keating. So that, as a matter of fact, you represent 7 out of 320?

Mr. Sherard. Those are not eligible to join the association.

Mr. KEATING. Out of 320 employees of your mill, 313 are not eligible for membership in the association which you represent here to-day, and 7 are eligible?

Mr. SHERARD. I am not only representing the association; I am representing the children—the laborers in the mills.

Mr. DENISON. Then what I was going to ask you about was in what way they got you to come here to represent them?

Mr. SHERARD. I have had several people write me to come, not only at our mill, but at two others besides, asking me to come.

Mr. DENISON. Certain individuals, you mean, that you were acquainted with, that either spoke to you or wrote to you to come?

Mr. SHERARD. Yes.

Mr. DENISON. In that sense, you mean, you are representing them?

Mr. SHERARD. And I am representing them because I do not think it is best for them, besides. I know what the conditions are in our State, and if they had not asked me I would voluntarily have made a statement to that effect, because the time is not yet ripe for a thing of that kind in our State, without very material injury to the children.

Mr. DENISON. Has here been, in any of these mill centers, any meetings of the laborers themselves, and any action taken by them in a united way in regard to this legislation that you know of?

Mr. SHERARD. Nothing except as to those petitions that I know about. They have circulated petitions.

Mr. DENISON. Those originated among the mill owners themselves, did they not?

Mr. SHERARD. They did not at our mill. I can not speak for the others. I know some other mills where the people in the village got the petitions up, but generally speaking I can not state.

Mr. DENISON. Now, I would like to ask this question, with the Chairman's consent. You have no mother's-pension law in your State, have you?

Mr. SHERARD. No, we have not.

Mr. DENISON. Has there been any agitation for it at all?

Mr. SHERARD. No; not that I have heard of.

Mr. DENISON. No proposed legislation?

Mr. SHERARD. Nothing that I have heard of.

Gov. KITCHIN. Mr. Chairman, I suggest that this witness can explain to the committee exactly what sort of work these children do. He can tell you about the card running, the spindle running, the weaver running, and what part of it the children work in.

The ACTING CHAIRMAN. If you have not covered that phase of it the committee would be very glad to have you tell them what kind of work these children do.

Mr. SHERARD. These children in the card room—we have no children in that except two little boys, doffers there. Most of these children, at least, are in the spinning department where the work is very light, clean and the rooms are very well ventilated, and in the very best sanitary condition. There are some few in the weaving rooms, and some in the cloth room, but those children, most of them, are spinners; the little girls, practically all of them, are spinners. They are paid so much per side. It depends upon the kind of yarn they are running, the character of yarn, whether it is fine, or how hard it is to keep it. That determines the price per side they are paid, but the doffers are paid so much per day. The doffers work practically one-half of their time, and they are paid from 75 cents to $1 a day, and they work about half of the time, and they are playing baseball out in the yard the other part of the time.

Mr. KITCHIN. Just tell them exactly what is the work that these girls do. Is it with an ax or a hoe?

Mr. SHERARD. No; there is nothing laborious about it at all. It is spinning. They are not in a stooping position or anything. The frames are about so high [measuring], and they can just stand up and do the work, and when the end comes down they put the end up on the roving stick, and when the bobbin runs out change the bobbin and put another bobbin on and wipe the lint off as it accumulates. They have a brush for that, which does not take practically any time to do that. There is very little accumulation of that kind in the spinning room. The work is very light. There is nothing hard about it at all.

Mr. SUMNERS. There is no lifting?

Mr. SHERARD. No, sir; no straining at all.

Mr. SUMNERS. Do they stand in an erect position?

Mr. SHERARD. Stand up; yes. They can sit down. There are places provided for them to sit. You can go up through many mills and look up around the room and see nobody at all. You see some of them sitting on the floor.

Mr. SUMNERS. Is there much lint flying in the atmosphere from the débris?

Mr. SHERARD. No, sir; no lint flying in the atmosphere at all. We use brushes for cleaning machinery. The lint is reduced to a minimum there, for that matter.

(The witness was thereupon excused.)

Mr. KITCHIN. Gentlemen, I have the pleasure of introducing Mr. Fitzgerald, of Danville, Va., who represents a mill that employs 6,000 people. Just go ahead and make your statement, Mr. Fitzgerald.

STATEMENT OF H. R. FITZGERALD, SECRETARY AND TREASURER RIVERSIDE AND DAN RIVER COTTON MILLS, DANVILLE, VA.

Mr. FITZGERALD. Gentlemen, I will be a very poor witness; but if you will let me make my statement and ask me any questions afterwards that you wish to ask me through my instrument I will be very glad to answer them, if I can.

The company that I represent, the Riverside and Dan River Mills Co., is located at Danville, Va.

The commissioner of labor reports for the State of Virginia 10 cotton-manufacturing plants, having a capitalization of approximately $12,000,000. The fact that our company represents eight and a half million of that amount seems to show that we have about three-fourths of that industry for the State of Virginia in Danville. We employ approximately 6,000 operatives. Of that number we have approximately 140 between the ages of 14 and 16. We do not employ any one younger than 14 years of age. For many years it has been the policy of our company, through what we call its welfare department, to promote as far as possible the educational advantages of its people. That is rather necessary because of two facts. One of those is the educational facilities that were afforded by the State and county at the time. The second is the economic conditions of the industry itself requires an intelligent, able-bodied, competent, efficient organization of operatives. Every mill that wants to keep abreast of the times to-day finds it necessary to its economic advantage to promote the conditions of its people.

We maintain, for instance, a department in which there are from 25 to 30 trained workers engaged all the time, throughout our mill buildings. We built a few years ago a new public-school building at a cost of $35,000. We reenforced the school term of the county, which was ordinarily about six months of the year, at the expense of the mill. We have two public school buildings in our village at an extra expense above what is allowed by the school trustees. It is always assumed, and no questions asked by our company. We maintain night schools and day schools. We have a department in which there are trained nurses who make every day a circuit of the village and visits in the case of sickness that may be in the village.

I have prepared statistics, which I am prepared to offer you, but I simply brought along in my hand a little illustrated pamphlet that will throw some light upon the work of our welfare departments, in order that you may see something of what we are doing, as I go along. I would be glad if you would take that and examine it if you want any information as to the mill village, or as to the work of the departments. The average expense of our welfare department was about $12,000 a year until the past year our board of directors approved an appropriation of $50,000 for a Y. M. C. A. building for the boys and young men of the village which now increases the cost of the welfare department to approximately $25,000 a year.

Now, with respect to the conditions under which the young people are employed, I want to say to you that the problem of child labor, as it seems to be understood or represented, is something that does not exist in our mill. Granting that those who represent, or who have undertaken to paint those conditions are entirely honest in their views or opinions, and I have no doubt that they are, the statements that have been made, the pictures that have been drawn, are so remote, or so exaggerated from our standpoint, that we do not come into contact with them. I dare say that there is no agency in the South that has done more to promote the well being of its people than the southern cotton mill. Those mills originally were not promulgated as the picture seems to be drawn, from northern capital, for the sake of large profits, but the first mills that were built in the South were built for the purpose of affording some outlet for the labor of the poor people of the South.

Our mill had its origin in the year 1892. Danville is a large loose-leaf tobacco market. It is also a section in which we have a large number of tobacco factories, affording employment for the laborers. Three brothers got together and talked that problem over and there were six public-spirited men of Danville who banded together and put up $75,000 capital and started to build a small cotton mill. Not a single one of the bunch knew anything about the business. They had even to send out for the superintendent that was to run it, but their object was to develop that industry that would afford an outlet for the labor of the poor white people of the community. I am glad to tell you that God has blessed their efforts to this extent that the mill has been prosperous; it has grown to be a large organization, and as I have stated we now have approximately 6,000 operatives.

There are 4,000 spinners, and we operate a lot of mills. Those mills, most of them, were designed by Lockwood, Green & Co., of Boston, who are the most competent mill engineers that I know of. They were built thoroughly modern and up-to-date in all respects. As far as we know and believe, there is no plant in the country that combines more of the modern improvements of a first-class manufacturing plant than ours; at least we have been told so. For instance, as to the atmospheric conditions, we not only have sanitary advantages, the best of plumbing, and the best of facilities, but we have a 15-minute air plant throughout those mills. In the summertime the atmosphere is cooled by blowing in cool, fresh air from the outside. We maintain an atmosphere 5 degrees below the outside air on a hot day. In the wintertime, regardless of how cold it is outside, we can have perfectly comfortable atmosphere inside. The aim is to preserve the humidity of the atmosphere in order to make it duplicate a beautiful spring morning. We do not want it either too hot or too cold. Our people, most of them, live in the village. We have about 5,000 people in the village. The houses are kept in good repair, and are furnished with electric light and hot water without charge. In their disposition of sewage and garbage, all of the incidentals that are furnished by a city of any size come to them without a cent of cost. They are paid their wages in cash, and although the village has an abundance of stores, they go up to the city of Danville and make purchases anywhere they please. The company itself does not maintain or run a company store.

The rate of rental that they pay ranges from 25 to 50 cents per week per room. It is not expected to make the renting of houses provide an investment to the company. They have over half a million dollars invested in tenement houses, but they simply aim to make the account self-supporting.

Now, with respect to the health conditions of the operatives. There is absolutely no comparison between the well-being of an operative that has lived for a while in our mill village and the conditions that exist with that operative, for instance, if he came from the country. The health rate has improved in our village to a point that is very rarely attained. Our death rate is below the death rate of the city of Danville, which is saying a good deal, because the city of Danville is a very healthy city.

So far as the attendance upon the public school is concerned, for several years the conditions in our mill village, by comparison, show an improvement over what it was in the city schools—that is to say, in Danville—in proportion to the number of schools, for the simple reason that we have not the school facilities that Danville has, but that condition does not exist to-day, for the reason that the city of Danville has built two large public-school buildings within the last few years, and they are now building two more, so that has changed to some extent. Now, with regard to the question of employing children. I want to say to you, gentlemen, that I am not an advocate of child labor; I am not advocating child labor in the sense in which that term is understood, and I do not believe that there is any intelligent mill man of to-day who would for a moment contend that the principle is right—of taking small children and putting them to work in any sort of industry that would result as the pictures of these gentlemen who are advocating this bill show; not for one moment. But I want to tell you right now that if, for instance, the theory were advanced that no young person from 14 to 15 or 16 years of age could be taught and prepared for an industrial education, the time would come when it would be the greatest blow that you could strike at the laboring interests of the South. Unless young people are taught and educated and prepared for their work they are not only handicapped all through life because of that fact, but the industry itself would be without efficient, trained, expert operatives.

I do not think that there ever was any profit to any mill in employing children from 10, 11, or 12 years of age. At the same time we all know that 20 years ago or 25 years ago almost no attention was paid to these things. It was not because the mill sought and wanted child help. It was because the family sought and wanted an outlet for the only thing that they have as a means of support. The problem that has confronted the poor people of the South is a serious problem along that line. For instance, recently one of our superintendents received a letter from the mayor of the city, sending him a little boy and a little girl. The little girl was about 14 years of age, and the boy about 12 years and 6 months. He said to him:

> DEAR MR. CHAPMAN: I am sending you a little boy and a little girl who are the older children of a widowed mother, and her only support. She has had a hard time in the world, and it would be an act of real charity to give these people something to do in order that they can make a living.

Now, the fact that we have in our State a law which makes the age limit 14, a law that was adopted, I am glad to tell you, in good spirit, not only on the part of the laboring people, but the representatives of the child labor committee, and the milling interests all agreeing upon a law that was in good faith and in good spirit a reasonable law, which has been in operation in our State for several years, so far as I know, but because of that fact, while we recognized that it closed the doors in the faces of a great many dependent families; that there would be a great many cases in which it would work hardship; at the same time we resolved that we would not, against the sentiment that existed against this child-labor question, we would not advocate an age limit below 14 years. For that reason we have had to draw the line, and we do not allow any overseer or superintendent of our plan to employ any person below 14.

Now, if you raise that limit to 15 or 16, you would simply exaggerate to a much larger extent the hardship that would be visited upon a large number of people through the country who have had to contend with adverse conditions and upon whom God has laid poverty.

I have always felt that the best road by which to overcome that trouble was by the educational route. And yet, every time that anything has been said in our State legislature about compulsory education, up go the hands of the people that you are talking to. If the mill people asked you to-day to pass a compulsory educational law that would require children from 7 to 14 years to be educated, I dare say you would hesitate and you would not want to do it. Now, the fact that this education is not being supplied is not without its disadvantages to the young people of the country. Any boy 10, 12, or 14 years of age who is maintained in other ways, who is not compelled to go to school or compelled to go to work either, such a class of boys that comes from that element of people has a great disadvantage. I want to tell you now that if he was my boy, and if I had to make my choice between the two, I would rather put him to work at 12 than to have him loafing at 12. If he could not go to school, I would rather he should be at work, because, after all, the treatment they receive and the conditions under which they work and the advantages which they enjoy make it nothing more than an industrial school to them that gives them a training and experience that must be valuable to them in life.

The idea that a child who is employed in a spinning room is doing arduous work is a mistake. There is no arduous work in the spinning room. The physical work is so light that it does not deserve to be called manual labor at all, and the average length of time that a child between 14 and 16 years of age works in a day is less than six hours. For instance, we employ 140, as I stated a while ago, which was the number I got from the pay roll just before leaving home. Of that number 90 were what we call doffer boys. They doff about four times a day. It takes about 15 or 20 minutes, and they have time enough between those intervals to have all the sport that they want. At the same time it would be safe to say that out of the 10 hours that our mills run, those children, if you call them children, are not employed more than three-fourths of the time, at the outside, and they have advantages there, you see, that result not only in their being self-supporting, but some of them make wages enough by means of which they transform the whole economic condition of the household, and if you would pass this law it would visit a great hardship upon the family itself, as well as upon the industry.

Now, there is just one other phase of this question that I will call your attention to. Aside from any objection that we have to the bill itself, you gentlemen, of course, understand that you are being approached by some people without the best of advantages, but, I will say, with Christian spirit, asking you to enact legislation that will compel certain improvements or certain renovations in conditions upon a class of people you are being asked to legislate for which will affect both the manufacturing interests of the country and the people themselves that are employed in those manufacturing interests, yet neither of those two classes would for one moment want you to pass any such legislation. The vast number of working people of the South would not want to be placed at that disadvantage, and it would be a slap in the face to their progress; it would virtually close the doors to them in a way that would be felt far and wide.

The manufacturers do not ask for it. Why? Because the manufacturers are confronted, as it is, with that problem that makes it necessary to keep up with all of these avenues that affect not only their own business, their own interests, but the interests of the people themselves. They have had to deal with the educational advantages of their people. I dare say there is no industry in the country that is doing more in the way of welfare work among its operatives than are the cotton mills of the South. I believe that can be successfully demonstrated, if you would look into it.

Furthermore, suppose from our standpoint we said to you that a bill that makes the limit at 14 years does not touch us, because we do not employ anybody below 14 years, can you not see that this bill, or the principle upon which it operates, puts practically the same disadvantage upon a mill that keeps it as upon the mill that does not keep it? It not only reaches every individual industry in the country, but if I interpret this bill correctly, it reaches every customer of every industry of the country to this extent, that you make it an absolute requirement that an affidavit be given at the hands of anybody that you approach who is shipping goods anywhere in this country that those goods were not made in an industry that violated this law. For instance, if I have a thousand customers scattered all over the United States, and if my customer is shipping goods that were made by our mill, you are in position to demand that our customer shall be able to produce, on inspection, the affidavit from us to the extent that we have not violated that law in making those goods.

Furthermore, it provides the addition of a department to the Government. It invades that constitutional right of each State to regulate conditions within its own borders, and proposes to appoint Federal inspectors to go into that State to see that these provisions are being carried out. Now, we have in our State fire insurance inspectors, we have boiler inspectors, inspectors of accident insurance, and we are always glad to see the inspectors come around; we are not afraid of them at all; they feel perfectly at home with us, and yet I think you must recognize, if you will put yourselves in the position of the manufacturing enterprise, that the creation of a department that is as unnecessary as that is, not only invades the sacred right of the State but it is also putting in a position that is, to say the least, embarrassing to the manufacturing industries of the country.

I do not think there would be half a dozen people among the 6,000 that we employ that would for a moment ask you to pass such a bill as that, and I do not think that you will find half a dozen manufacturers in the United States that would ask you to pass such a bill as that. My idea is that if people who want to bring about reforms would go at their reforms in a little different way they would find that there are other prophets in Israel besides themselves. I dare say that out of thousands of children, so called, between the ages of 14 and 16, there is hardly 1 in 15 that is in active employment in the mills or manufacturing enterprises. There are 14 out of 15 working on the farms and in other things that are not touched by this bill, yet under conditions that do not begin to compare with those under which the children work in the mills and manufacturing enterprises. Now, if they want to benefit the young people of the South; in other words, if the child-labor committees wish to help the welfare of the children, why do they not go to work and help to bring educational advantages and improve the conditions? If they would do that, they would bring about a very different situation in the country. I thank you, gentlemen.

Mr. KITCHIN. Do you gentlemen wish to ask him any questions?

Mr. NOLAN. I would like to ask a few questions of the gentleman. Mr. Fitzgerald, the original capital of your company was $75,000?

Mr. FITZGERALD. Started with $75,000; yes, sir.

Mr. NOLAN. What is the capitalization of the company to-day?

Mr. FITZGERALD. Eight and a half million dollars.

Mr. NOLAN. How was that additional capital raised?

Mr. FITZGERALD. By subscription. Our company grew from a small circle of a half a dozen men up to a circle of 1,500 stockholders. The stock was owned for a long time by the citizens of Danville, but now it is scattered, of course, all over the country, and very largely through the South. We have about 1,500 stockholders.

Mr. NOLAN. How much of that $8,500,000 came into the company through the sale of stock?

Mr. FITZGERALD. Practically all of it. There were one or two instances in the history of the company in which, for instance, when we built the Dan River plant there were no dividends paid on that plant for about five years after it started. The idea was that whatever profits were made while building should remain in the treasury. At the end of that period they paid a stock divided and a cash dividend that amounted to about 3½ per cent a year since they started at that time.

Mr. NOLAN. One more question. How much stock was paid in stock dividends?

Mr. FITZGERALD. How much was paid in stock dividends?

Mr. NOLAN. Yes.

Mr. FITZGERALD. At that time the rate of dividend was 20½ per cent. That covered the period of five years. It was just a little over 12 per cent net per annum for the time it was paid.

Mr. NOLAN. How much, in the aggregate, of the stock was paid in stock dividends?

Mr. FITZGERALD. How much of the stock was paid in stock dividends?

Mr. NOLAN. Yes.

Mr. FITZGERALD. The amount of the capitalization on which it was paid, I think, was $1,500,000 at that time. The Dan River dividend, before it was consolidated with the Riverside dividend—I think the outstanding stock was $1,500,000 and the amount of the dividends were three hundred and some thousand. That covered a period of five years.

Mr. NOLAN. So that the total of stock dividends paid since the formation of the company is $300,000?

Mr. FITZGERALD. It was paid on the stock as it was held—it was paid to the holder of the stock.

Mr. NOLAN. You probably did not catch my question. How much, in the aggregate, of the stock dividends——

Mr. FITZGERALD. How much was the average?

Mr. NOLAN. How much, in the aggregate, was the stock dividend? You say that between those five years it was $300,000. Was that all of the stock dividend that was paid?

Mr. FITZGERALD. That was all the dividend that was paid on that stock during the five years.

Mr. NOLAN. Was that all of the stock dividends that were ever paid?

Mr. FITZGERALD. That is the only one that I recall, sir.

STATEMENT OF MR. JOSEPH J. BRADLEY.

The CHAIRMAN. Will you tell the stenographer your age, your occupation and your residence, please.

Mr. BRADLEY. My age is 48.

Gentlemen, I do not think it is necessary for me to go into detail with reference to what you people want to know in reference to cotton mills. I think the gentlemen who have preceded me have told you all about cotton mills, and I think the only thing that is left for the balance of us is to answer the questions. It is not necessary for me to go into details as to any of the mills in Alabama but my own, and I just happened in here, and Mr. Kitchin will bear me out. He asked me if I would come up and appear before this committee, and I think he will bear me out in that statement, that I came back from Philadelphia to-day.

Mr. KITCHIN. I wanted you to.

Mr. BRADLEY. In reference to the mills at Merrimac, I have had several members of the legislature down through the mills, and we have nothing to hide from any of you here or from anyone in the world. If he wants to go through them from top to bottom, he is perfectly welcome to come there to our mill at any time. When Judge Richardson died a delegation came down there with his remains, and there was not a one that I did not take through the mill.

The CHAIRMAN. Would you object to telling the committee how many, if any, children between 14 and 16 years of age your mill employs, and if so, under what conditions you employ them, and what they do, and how it will affect, in the first place, your business from the standpoint of the employer if this law were enacted which would stop you from working the people of those ages named in the bill, and how it would affect the welfare of the employees themselves, in the second place.

Mr. BRADLEY. At the present time we have boys—the legal age limit in Alabama this last year has been changed to 13 years. September 1, 1916, it goes up to 14 years of age. At the present time, out of 856 employees, we have 9 boys and 11 girls under 14 years of age—that is, between 13 and 14 years of age. We have 54 boys and 51 girls under 16 years of age.

Mr. ALMON. And over 14?

Mr. BRADLEY. That is, over 14 and under 16; yes, sir.

Now, the work these children are supposed to do in the mills is very, very light. The heaviest piece of cotton—that is, on what we call roving bob and that they have to lift—weighs 11 ounces. They simply take the roving bob out of the wheel. There is a little stick, which we term the superior, and they pass it on as it comes through. If any of the ends break down on the bobbin of the frame, their work is to find the end on this bobbin.

Mr. KITCHIN. Tell them what an end is.

Mr. BRADLEY. It is the yarn after it comes off the rover and runs through the roller. It is the cotton as it is drawn out. Now, the end is very light. The yarn that we run you can tell about the lightness of it, it takes 36,000 yards of this end to make a pound. So, you see, that will never damage them at all in lifting that. They lift is off of this bobbin and are supposed to put it under a traveler and place it on the roller, so that the end will be continuous again on that bobbin. That is about the heaviest work that they have to do. I do not suppose that the children would be employed over 50 per cent of their time.

The **Chairman.** What is the hour limit on their work? How many hours are they supposed to be on duty?

Mr. **Bradley.** We work 60 hours a week. Our frames do not doff but twice a day, and it takes a boy about two and one-quarter hours to go around, and he doffs that twice a day, and that only averages him about four and one-half hours per day on his labor, and the balance of the time he can go out and do as he pleases; that is, in my particular mill, but there are other mills that work coarse yarns and such as that.

Mr. **Nolan.** I would like to know if the doffing of all of the frames goes on at the same time?

Mr. **Bradley.** Yes, sir; we have to keep them that way. In reference to taking the children out of the mill, there will be one disadvantage, in a way, to a mill. Every one of these machines, gentlemen, when they were built—our machinery is from 12 to 20 years old—that machinery was built in the days that they allowed the smaller children to work, and the frames do not work up much higher than that [indicating], and if you put a 6-foot man on that class of work he has to work in this position [indicating] all the time to get down to it. That is the reason we can not get the bigger ones on that kind of work. We have got to change the ways of running our machines and have got to change the build of them, etc.

Mr. **Almon.** Tell what educational and religious advantages there are about your mill and others around Huntsville.

Mr. **Bradley.** This last year the State legislature passed a compulsory-education law. That is one thing that the cotton mills have advocated for several years back. Now, at our mill we have a school; we have four teachers, two of them paid by the county and two by the mill. We have three churches, two of them have pastors, and the third one—we pay $250 a year to one and $300 to the other as a help toward these pastors in the churches. We give them free light, free coal, and everything of that kind. We also have a free picture show. Now, we do not make any charges whatever for our picture show. We just run it once a week for the benefit of the employees. We have a hall where they have the meetings of their secret societies and such things as that, and our school, which was built now about two years ago—and that has been built on company land and by company money.

Mr. **Almon.** Have you any library?

Mr. **Bradley.** Yes, sir; we also have a reading room and a library. The other mills except ours have Y. M. C. A.'s. The town of Huntsville has a Y. M. C. A. in the city, and there are three others around the town, and we have 17 mills.

Mr. **Almon.** How many months in the year do the children go to school?

Mr. **Bradley.** They are compelled to go to school before we can employ them three months, but our school runs at the mill eight months in the year.

Mr. **Almon.** About what is the average attendance for each pupil?

Mr. **Bradley**. The average attendance, we have on the roll in school about 216, and our average attendance will run 176.

Mr. **Houston**. Do I understand you to say that they must go three months in each year before you can employ them?

Mr. **Bradley**. Yes, sir; we have to know before we can employ them that they have gone eight weeks to school at the present time.

Mr. **Almon**. Will you explain to the committee the educational advantages in the Huntsville district around the mills as compared with the educational advantages in the adjacent country and the mountains from which these children ordinarily come, if they do come from the mountains?

Mr. **Bradley**. They certainly do. About two-thirds of my help has come from the mountains of Tennessee, and if the gentlemen here could just come and look at the schoolhouses that these children are compelled to attend in the country in the northern section of Alabama it would just simply astound them.

Mr. **Almon**. Just describe the conditions when they first come to the mills at Huntsville and the difference after they are there awhile, from an educational standpoint and other social advantages, and so on.

Mr. **Bradley**. That has come to our notice more this last year than any other time. Before we can employ them, I say they are compelled to go three months, and we are now almost entirely unable to get employees from that section, which we formerly did, on account of them not attending school in the country. They can not get a certificate. Now, there was one thing that happened just recently in the schools around Huntsville. The State of Alabama ran short of funds to pay the teachers and they were forced to suspend the schools for one month in the town of Huntsville, and there was not a mill school that was forced to suspend. Everyone of these mills in the town of Huntsville paid the teachers in advance.

Mr. **Almon**. Do you know the condition of the health of the employees in the mills there as compared with the health of others of similar age and not in the mills in that locality?

Mr. **Bradley**. Well, I would consider the children in the mills very much better than what they would be if not employed in the mills, because we have better houses for them to live in, etc. You can hardly find a family that comes from the country, where there are five or six of them in the family, that they do not all live in one room, but we have no such conditions as that around the cotton mills. It is very, very hard for the cotton-mill people to get more than two or three in a four-room house.

Mr. **Smith**. What do you mean by not being able to get a certificate when they come from the country?

Mr. **Bradley**. On account of not attending school. That is the State law.

Mr. **Smith**. You mean they do not have the schools to go to?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. You have 856 in your mill?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. Twenty of them between 13 and 14?

Mr. **Bradley**. Twenty of them.

Mr. **Keating**. They go out under your State law the 1st of September, 1916?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. Then you will have 105 boys and girls between 14 and 16 who would be affected by this law?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. You understand that this law provides that children under 14 to 16 can work in the mills provided that they do not work more than eight hours a day or at night?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. So your objection to the law is that it prevents you working the children between 14 and 16 more than eight hours a day?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. And prevents you working them at night?

Mr. **Bradley**. Yes, sir; well, we do not care about the night work. I do not object to what you pass on night work. You can stop it all if you want to.

Mr. **Keating**. So that really your objection to this bill is that you are now working 105 boys and girls between the ages of 14 and 16?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. Sixty hours a week?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. And this bill would compel you to work them 8 hours a day for 6 days, 48 hours a week?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. That is your objection?

Mr. **Bradley**. Yes, sir.

Mr. **Keating**. Have you ever considered the advisability of so arranging your business that a boy of 14 or 16 might be employed for 8 hours and then relieved?

Mr. **Bradley**. It can not be done in the mill.

Mr. **Keating**. Are you familiar with the fact that that very thing is being done in a great many stores in large cities where they have an 8-hour day for women and children?

Mr. **Bradley**. That may be so, but we could not do that in a short time.

Mr. **Keating**. We give you a year in which to make the arrangements.

Mr. **Bradley**. I do not see how they could come to it in a year. You can not buy machinery in less than a year's time.

Mr. **Keating**. I am not discussing the proposition of buying machinery. I am talking of working these boys and girls between 14 and 16 years of age in your mill, and I am calling your attention to the fact that in a great many large cities laws have been enacted restricting the hours of labor of women and children to 8 hours a day, that department store managers find that they can work a girl for 8 hours and relieve her with another girl; they so arrange their business that no girl works more than 8 hours, and I am asking you if you can not so arrange your business that while you would continue to employ these 105 boys and girls between 14 and 16 years of age, you would not employ any of them more than 8 hours a day?

Mr. **Bradley**. No, sir; I have not.

Mr. **Keating**. You have not considered that?

Mr. **Bradley**. No, sir.

Mr. Keating. You stated to the committee that you worked 60 hours a week?

Mr. Bradley. Yes, sir.

Mr. Keating. Do you work your employees 11 hours a day for the first five days?

Mr. Bradley. Yes, sir.

Mr. Keating. And the first five days these boys and girls are working 11 hours a day?

Mr. Bradley. Yes, sir.

Mr. Keating. So that your real objection is that you are not permitted to work these children 11 hours instead of 8.

Mr. Bradley. It is not a real objection on my part in that respect.

Mr. Keating. That is the only objection you can find to this bill?

Mr. Bradley. Yes, sir.

Mr. Keating. Because of the regulation of the hours of labor?

Mr. Bradley. Yes, sir.

Mr. Keating. At the present time you work your boys and girls 11 hours a day?

Mr. Bradley. Yes, sir.

Mr. Keating. And you are opposing this because the bill would permit you to work them only 8 hours a day?

Mr. Bradley. Yes, sir.

Mr. Keating. You stated that your boys worked 4 or 5 hours out of 11 hours?

Mr. Bradley. Yes, sir.

Mr. Keating. How many hours do your girls work?

Mr. Bradley. They work continuously.

Mr. Keating. How many girls have you in the mill between 14 and 16 years of age?

Mr. Bradley. I think it is 51.

Mr. Kitchin. When do they go to work and when quit?

Mr. Bradley. Fifty-four boys and 51 girls.

Mr. Keating. You have 51 girls who work continuously 11 hours a day for 5 days a week?

Mr. Bradley. Yes, sir.

Mr. Keating. When do they go to work in the morning?

Mr. Bradley. Six fifteen.

Mr. Keating. And when do they stop at night?

Mr. Bradley. Six o'clock.

Mr. Keating. How much time have they for luncheon?

Mr. Bradley. Three-quarters of an hour.

Mr. Houston. How many hours do they work the sixth day?

Mr. Bradley. Five hours. That is one thing they always ask for, to get a shorter day on a Saturday. They are supposed to work five hours on Saturday, and have a Saturday half holiday. In reference to the girls, you spoke about the girls working for the full 11 hours. These girls are not continually on the run for the full 11 hours.

Mr. Keating. They are on duty for 11 hours?

Mr. Bradley. Yes; they are on duty. That is, we might term them as being right there. There are times, of course, that they are setting down at the end, but they never go out, like the boys do.

Mr. Keating. To what extent would this affect you in a financial way?

Mr. **Bradley.** To what extent would what affect me?

Mr. **Keating.** The bill.

Mr. **Bradley.** I do not suppose it would affect us so greatly in a financial way.

Mr. **Almon.** You have State-inspection laws in Alabama?

Mr. **Bradley.** Yes, sir; we have three inspectors—one lady inspector, who has recently been appointed.

Mr. **Almon.** What is your position in reference to the Merrimac mills?

Mr. **Bradley.** Agent.

Mr. **Almon.** Are you the sales agent?

Mr. **Bradley.** No, sir; I am just agent of the concern, a sort of general manager.

Mr. **Almon.** Do you know of any demand in Alabama on the part of operatives for Federal regulations such as provided in this bill?

Mr. **Bradley.** No, sir; I do not, and I tell you that I believe you could get them all to tell you that they do not want it.

Mr. **Almon.** What is the extent of your information as to the sentiment against it or for it?

Mr. **Bradley.** I have heard gentlemen say something with reference to petitions. We have never had a petition around the mill. We never had it, and the only thing I can say here is what I have heard in a casual way—that they oppose it.

Mr. **Cooper.** I have not heard you give any reason why you oppose this bill.

Mr. **Bradley.** That gentleman [indicating Mr. Keating] just asked me.

Mr. **Keating.** He said he opposed it; that he now employs 105 children, 51 of them being girls, 11 hours a day, and this bill would compel them to work these children eight hours a day. May I ask if your concern works any mills in Massachusetts?

Mr. **Bradley.** Yes, sir.

Mr. **Keating.** Where?

Mr. **Bradley.** At Lowell.

Mr. **Keating.** Isn't it true that your mills at Lowell are conducted exactly under the standard set in this bill?

Mr. **Bradley.** I could not tell you as to that.

Mr. **Keating.** It happens to be true. Your company's mills at Lowell are being conducted under exactly the conditions set up in this bill, and being conducted successfully.

Mr. **Smith.** How many hands do you employ in your mill at Lowell?

Mr. **Bradley.** Three thousand.

Mr. **Smith.** How do the wages compare?

Mr. **Bradley.** I do not know, sir; I could not tell you.

Mr. **Smith.** Any child labor in Lowell?

Mr. **Bradley.** I believe there is.

Mr. **Smith.** You are not familiar with detailed operation of that mill?

Mr. **Bradley.** No, sir; I have not been there over half a dozen times.

Mr. **Almon.** At what age did you commence working in a mill?

Mr. **Bradley.** Nine years of age, and I started in Philadelphia, Pa.

Mr. ALMON. And you have been working in a mill ever since you were 9 years old?

Mr. BRADLEY. Yes, sir.

Mr. DENISON. When was the law enacted in Alabama fixing the limit at 14 years?

Mr. BRADLEY. Last year.

Mr. DENISON. Do you know who was responsible for the enactment of that law; who agitated it?

Mr. BRADLEY. I do not. We as cotton-mill men asked that the age limit be raised to 14.

Mr. DENISON. Why did you do that?

Mr. BRADLEY. We just wanted to come along with the times.

Mr. KEATING. Were you doing it just to come along with the times?

Mr. BRADLEY. Yes, sir.

Mr. KEATING. Did they, the interests that you are connected with, go before the committee of the legislature in any way in connection with that legislation?

Mr. BRADLEY. Did who, sir?

Mr. KEATING. Did the interests that you are connected with?

Mr. BRADLEY. Yes, sir.

Mr. KEATING. And ask for the enactment of the law?

Mr. BRADLEY. Yes, sir; we asked for the 14-year law.

Mr. KEATING. You asked for the 14-year law?

Mr. BRADLEY. Yes, sir.

Mr. KEATING. That was the only motive, just to be up with the times? Is that the idea?

Mr. BRADLEY. Yes, sir.

Mr. KEATING. That is the way you remember it?

Mr. BRADLEY. Yes, sir.

Mr. KEATING. What do you understand that to mean—to be up with the times?

Mr. BRADLEY. I means this, gentlemen, that I believe that a State knows better the conditions there than the Federal Government does. I think that the State is forcing us along just as fast as we dare to be forced, or the people dare to be forced.

Mr. ALMON. Is that in accordance with the sentiment down there?

Mr. BRADLEY. Yes, sir.

Mr. ALMON. Public sentiment?

Mr. BRADLEY. Yes, sir.

Mr. DENISON. Is that labor employed in the mills of your State organized in any way?

Mr. BRADLEY. No, sir.

Mr. DENISON. You have no labor unions in your State.

Mr. BRADLEY. No, sir; we do not.

Mr. LONDON. How are wages determined in the mills? You are pieceworkers?

Mr. BRADLEY. Yes, sir.

Mr. LONDON. Have the workers anything at all to say in determining the piece rates?

Mr. BRADLEY. No, sir.

Mr. LONDON. None at all? The rates are determined by the employers?

Mr. BRADLEY. Yes, sir.

Mr. KEATING. Has any demand ever been made to organize a labor organization?

Mr. BRADLEY. No, sir.

Mr. KEATING. What would be your attitude on that matter?

Mr. BRADLEY. It does not make any difference to me. I have not got anything to do with it; that is their affair.

STATEMENT OF MR. S. F. PATTERSON.

The CHAIRMAN. Will you be kind enough to tell the stenographer your name and age and occupation, please?

Mr. PATTERSON. Forty-eight years old; name, S. F. Patterson, Roanoke Rapids, N. C.

The CHAIRMAN. You have not stated, Mr. Patterson, your occupation.

Mr. PATTERSON. I am treasurer and general manager of the Roanoke Mills, and treasurer of the Rosemary Mills, at that place.

The CHAIRMAN. The committee is engaged in considering this child-labor proposition, the effect of which is to uphold an age limit of 14 to 16 years in certain classes of manufacturing establishments, and certain alternative propositions with reference to the number of hours a day which this labor is to be employed. The committee would be glad to hear you, Mr. Patterson, as to your views upon the practicability and the desirability of this proposition as a piece of legislation.

Mr. PATTERSON. Well, sir, I went to work in a cotton mill during my vacations when I was 12 years old, and went to work in a cotton mill regularly when I was 16—in a blacksmith shop—and served my apprenticeship through the mill. When I first worked in a mill we worked 69 hours a week; we worked 12 hours every day except Saturday, and I received 35 cents a day; and when I was 19 I took charge as superintendent of three mills, and I have been constantly in the mill business ever since. I was born within the hearing of spindles, and I have never lived anywhere else except around the cotton mills; and I believe I know the general conditions around cotton mills as well as most men.

We have with us no one under 13 years of age. The State law says that a child can be employed at the age of 12, provided he has attended school four months during the preceding school term, and he is to be employed in the capacity of apprentice. That meaning is rather vague; and so we do not have any children in the mill under 13 years of age, and we have, I suppose, probably six or eight under 14.

The CHAIRMAN. How many under 16?

Mr. PATTERSON. I do not know exactly, but I imagine we must have possibly, between 14 and 16, as many as 30. The change from 14 to 16 years to the owners of cotton mills would not make a very serious difference, but it would make a very serious difference to the laboring classes of the South.

Gentlemen of the committee, upon this question of child labor, I want to go on record now as saying that I am absolutely opposed to child labor, as you gentlemen who are not acquainted with cotton-mill conditions think of it—just as much opposed to it as you are, absolutely. I would like to see every child—in the South, especially; that is where my interest lies—I would like to see every child in the South, if it were possible to do so, not only go to a State university but to go to some of the larger colleges—Yale or Harvard—and get an education; but we all know that is practically an impossibility in this day and time.

The South has been poor, very poor, and she is coming into her own as rapidly as anyone has a right to expect her to come. The people in the South are getting richer all the time, not only cotton-mill people, but farmers as well. We all remember a few years ago when cotton seed were worthless. They were left out in the weather. The farmers could not sell them. To-day cotton seed are worth 70 cents a bushel, and there are practically 30 bushels to every bale of cotton. In other words, to-day the farmer can sell his cotton seed that he used to throw away for practically as much as he used to get for his entire bale of cotton, and his cotton is bringing just twice as much as it formerly did.

So wages in the South have increased, not only in cotton mills, which some people might think was entirely due to the efforts of the National Child Labor Committee. They have increased on the farms as well. I can remember the time easily—and it has not been long ago—when a man on a farm could get about 40 cents a day and his board. To-day he is getting $1 or $1.50 a day and his board. Living expenses have increased. I can remember the time when a farmer could buy a good mule for $75 or $100. To-day it will cost him twice as much. Living expenses are twice as much also. It is natural for people to get more wages in the cotton mills to-day, because the board of a single girl or a single man around the cotton mills to-day has increased 60 to 75 per cent. I can remember when cotton-mill girls could get board at $10 per month. To-day it is anywhere from $16 to $20 a month that they have to pay, owing to the increased living expenses.

When I first went in a mill we paid 7 cents per side, and when I say "side" I will explain it to you. The spinning frame has spindles on two sides of it. The number of spindles vary; the old frames usually had about 208 spoindles; the modern frames have as high as 256, sometimes more, but 256 is about a modern frame. For running one-half of these spindles, or one side of that frame, is what is termed so much per side in piecework. Now, when I went in the mill it paid 7 cents a side for running warp. Warp is the threads that run lengthwise in a piece of goods. They paid 8 cents a side for running the filling, the threads that run across the cloth, because the filling was harder to run than the warp. To-day the price for spinning is over 100 per cent more than it was then.

Mr. KITCHIN. In excess of what it was then?

Mr. PATTERSON. In excess of what it was then. To-day we are paying on practically the same work 16⅔ cents a side for filling and 15 cents for warp, which is more than twice as much as we paid then. Cotton mills 30 years ago were not what they should be. I do not suppose that anybody would claim that they were. The modern mills of to-day are greatly improved. We heard Mr. Fitzgerald say, for instance, that his mills were designed by Lockwood, Greene & Co., of Boston; so were ours. Our mills were designed by Lockwood, Greene & Co.; they are well ventilated; and they are well lighted.

We have not a single tenement house in our village that is not a two-story building, and most of them are a little over 93 feet from the center of one house to the center of the next. We do that for two reasons: The fire risk is not so great. In case one house gets on fire it is not so apt to set fire to the next; another reason is that it affords a garden plot behind the house. Every tenement in our village has a garden plot connected with the house. These houses are well lighted. The sanitary arrangements are good. The expense of collecting the garbage, etc., is paid by the mills.

Our people pay no doctor bills at all. There are four doctors employed and their salaries are paid by the mill.. The rent for these houses is about 30 cents per room per week or $6 per month. The houses to-day would cost us $1,200 apiece. The last we contracted for were $1,069. We have found from experience that it takes $15.30 a year to keep a house in repair, to repaint it, to pay the taxes and insurance on it. So, if you figure it out, you will see that the large amount of money we have invested in tenement houses pays us about 4 per cent on our investment, not including what the land costs us—less than 4 per cent.

Now, you talk about the advantages of the South. Right there is a very serious disadvantage, so far as the actual financial condition of the mill is concerned. A great many of the northern mills do not furnish tenement house for their employees, and it makes no difference to the mill management whether the employees are sick or well. They live out in tenement houses, hire tenement houses that are built by companies that go into the tenement-house business. They build the tenement houses for the purpose of collecting rent. If they do not pay the rent, the families are put out on the sidewalk. I have seen it in Fall River, Mass. I have seen a family put out on the curbstone because the family did not pay the rent. I have never seen anything like that in North Carolina, or anywhere in the South. We to-day have families living in our houses that do not pay one cent of rent. Our health officer, Dr. Long, is present, and he will bear me out in saying that we have families that have been unfortunate, that are living in our houses, and they have for months, that are not paying 1 cent of house rent, and we do not propose to turn them out. We do not pose as being a charitable institution, but we do not turn out employees who have been faithful to us.

More than that, as I say, all of our employees are treated medically without charge whatever. They also have district nurses, who are under the care of the physicians. If a child is ill, a doctor notifies his district nurse. If a child has typhoid fever, the nurse is instructed to bathe the child and prepare suitable food for it and look after it, and I think a great deal of good is done in that way.

In addition to that, there is a hospital maintained, and every employee in the mill making a dollar a day or over, by a vote of the employees—we do not take it out without their saying so; but the employees voted on this subject, and I do not think there was a dissenting vote. They all voted that any employee getting a dollar a day or over should pay 5 cents a week, or practically $2.50 a year, toward the maintenance of this hospital. That means that if a man with a family—if he happens to be an overseer and he is getting $4 or $5 a day, he pays 5 cents a week. If a member of his family or anyone who happens to board in his house—anyone, it does not make any difference who he is, if he is in the house—is entitled to go to the hospital and have an operation or stay there six weeks with typhoid fever, and there is absolutely no charge for the doctors or the hospital or the nurses. This charge of 5 cents a week does not begin to pay the hospital expenses. The town contributes $100 a year to it; quite a number of individuals in that town contribute $100 a year each; the county contributes $100 a year; and the hospital is supported in that way.

Now, in regard to the health of the village, I wish to say that when I went there about 20 years ago and developed this water power there were three little houses there in that little neighborhood. Two of them were occupied by negroes and one by a white man. Today we have a town, well laid out, with broad streets and good roads, electric light, splendid sanitary arrangements, fire protection, and about 4,500 people, I judge; probably 5,000. I do not know exactly. And the people are making, for instance, in one mill—I have not the statistics on the others—but in one mill, where me work something over 500 employees, there were 44 out of 516, I think it was, who were getting less than $1 a day, and last week or week before last there was a girl 17 years old that made $16 a week weaving. We work 10 hours a day, or rather we work 11 hours for the first 5 days and 5 hours on the last day. We had nothing to do with that. That came as a request from everybody in the mill, children and all. They want a half holiday on Saturday. That was the result of a vote taken by the employees, a request made by them that we should run the first five days so that they would have a half holiday on Saturday. They preferred it, especially in the summer time. It gives them a chance to go out and witness baseball games and things of that sort on Saturday afternoon.

Now, the principle objection, I think, that every cotton manufacturer would have, and to meet the question, Mr. Keating, that you asked Mr. Bradley, I think it was, a while ago, is this: If this bill is enacted it puts us on a 16-year age limit just as effectively as if you put it in the bill, and my reason for saying that is this. The spinning operation in a cotton mill is an intermediate process. We have no children in the carding room. It would not affect the carding room at all. We have no children in the weaving room, but every mill in the world, I suppose, so far as I know, is designed so that each department will have to run the same number of hours per day. It is a practical impossibility to run the carding 10 hours and the weaving 10 hours a day and the spinning only 8 hours a day. It unbalances every cotton mill in the United States. The only way by which we could employ children between the ages of 14 and 16, if that bill was enacted, would be for every cotton mill in the State to provide additional floor space and to buy 20 per cent more spinning machinery.

Mr. Smith. Or employ older labor.

Mr. Patterson. Or employ older labor, labor over 16 years of age. That is what I mean to say now. It puts us as effectively on a 16-year age limit as if it had been so put in the bill.

Now, that is the practical side of it, gentlemen. I do not know any other side. I am not going to go into the constitutionality of the bill. I know nothing about that, but I say it puts every mill in the country on a 16-year age limit, and I want to tell you, to use the language of Mr. Grover Cleveland, that "it is a condition, not a theory," and our people in the South work children because it is a necessity, not from a matter of choice, but because it is a necessity, and I have seen a great many people smile when the word "widow" and her children are mentioned. Unfortunately it is true that we have widows in the South, and in a canvass or census that was taken just before the last legislature in North Carolina, we found that we had almost one-third of all our houses occupied by the families of widows. It is the most natural thing in the world if a farmer who is living on rented land dies, especially if his family consists of girls and he leaves no estate, it is the most natural thing in the world that that widow should seek a place where her children could make a livelihood, and the place where they can make the best livelihood is in the cotton mill. So she naturally drifts in to the cotton mill, and that is why we have widows, and that is why they are mentioned so often, and the fact that they smile when the word "widow" is mentioned does not alter the fact that we do have widows in the cotton mills and lots of them, and we take care of the people as well as we know how.

When it comes to working child labor the word "child labor" is repulsive to every intelligent man in the world. The word "child labor" is repulsive to you and it is repulsive to me. I know perfectly well that there is not a gentleman here that would deliberately put his boy in a cotton mill at the age of 14 years, 15 years, 16 or 17 years or any age until he got a good edeucation, if he could help it, but just the same you gentlemen do not want your boy outlawed so that in case he should be thrown upon his own responsibility that he could not make an honest living, and those people down there are proud. They are Anglo-Saxons; they are not foreigners. They are native-born American people, and just as proud as anybody else, and they do not want their boys to beg or steal or starve. They want the opportunity to make a living in case it is necessary.

Now, you abolish the necessity and child labor automatically abolishes itself. You look up the records and you will find just as rapidly as these people get in comfortable condition, so that they can send their children to school, they are sending them. That is not so in every instance, but it is the rule. The boy that stood second to the highest in the class at Trinity this last year was a mill boy. We had three others there, and I had the pleasure of helping to pay their tuition. The girl that took the highest mark in an academy there in that State, a well-known academy in North Carolina, was a mill girl. When she came home Christmas, during her vacation she worked in the mill and worked until the very day she left for school again. These people take advantage of all the opportunities just as rapidly as they can.

Now, if you legislate some way to help these people so that it is not necessary for them to have the wages from these boys, then you take all the ammunition away from the manufacturers in the South in the way of child labor. There is not any of it left. I do not think that any manufacturer in the South would say that he makes any money out of any child 12 years old, 13 years old, or 14 years old. I would not say it, but, unfortunately, it is necessary for some of those children to work. The State does not provide institutions for them. The almshouses of the State are full, and I would just like to put the question to you as a practical business proposition: If the State does not provide support for those people, what are they to do?

Mr. Keating. If you want me to answer that I would say that I have too much confidence in the good sense of the Anglo-Saxons of North Carolina to believe that they will permit anyone of the old Anglo-Saxons of that State to starve on the streets of North Carolina.

Mr. Patterson. That is very good. I have just as much confidence in them as any man alive, but just the same the conditions are as I have just stated them, and Gov. Kitchin will tell you the same thing. It is true with us. It is not anything to brag about, but we have lunatics in our jails who are guilty of no crimes, but we simply do not have a place for them in our asylums.

Mr. Keating. May I ask you, are you familiar with the conditions in Massachusetts?

Mr. Patterson. I am not, except in a general way. I am familiar to this extent, that there is no more comparison between the cotton-mill labor in Massachusetts and the labor in North Carolina than there is between Africa and America.

Mr. Keating. As to what particular?

Mr. Patterson. You take particularly the Amoskeag Mills, in Manchester, N. H. They employ 15,500 people. They have the mill rules printed in five languages, and they have interpreters all over the place. They have Poles and French Canadians, and everything.

Mr. Keating. And what is their standard concerning child labor?

Mr. Patterson. I do not know what their age is, but I know that the way in which those people live is not to be compared with the way that they live in the South.

Mr. Keating. You mean that the conditions in the South are better than in the Northern States?

Mr. Patterson. Very much better, because——

Mr. Keating (interposing). The point I was asking was this. If you can submit to the committee any reason why the cotton mills in Massachusetts should be able to operate in such a law as we have drafted here—if the mills of Massachusetts can do that, why can not the mills of North Carolina do the same?

Mr. Patterson. They can, Mr. Keating; but you must not lose sight of the fact that the manufacturers in Massachusetts fought against those laws just as long as they were able, and I very seriously doubt whether it has been an improvement. In fact, I know it has not been.

Mr. Keating. Nevertheless, they are conducting their business under those conditions.

Mr. Patterson. They are conducting their business, yes; and the mere fact that they are in trouble is no reason why they should try to put the rest of the country in trouble.

Mr. Keating. There are as many widows in proportion in population in Massachusetts as there are in North Carolina?

Mr. Patterson. Yes, sir; I suppose so.

Mr. Keating. So that the widow argument would apply to Massachusetts as well as to North Carolina?

Mr. Patterson. Yes, sir. There are more widows in Belgium than there are in North Carolina.

Mr. Keating. I want to dispose of the widow argument.

Mr. Patterson. I would like to dispose of that, too. Every manufacturer in the South would.

Mr. Denison. Let me ask a question. What is your judgment on this question? Do you think it practicable for the mills to change shifts, let the boys between 14 and 16 years of age work 8 hours, and then put on another crew for the balance of the 11-hour day?

Mr. Patterson. And let the others work three hours?

Mr. Denison. Yes.

Mr. Patterson. That is absolutely impracticable.

Mr. Denison. Why? You say you have a great deal of extra labor down there.

Mr. Patterson. No, sir.

Mr. Denison. Some of the other witnesses have said so to-day.

Mr. Patterson. As a matter of fact, we have had plenty of labor for the last two or three years, but it was very largely due to the fact that we offered them superior advantages over many other places on account of the wonderful effort we have made there in matters of health and sanitation.

Mr. Denison. Whatever the cause may be, you do have extra help, do you not?

Mr. Patterson. Well, occasioually.

Mr. Denison. I am asking for information, partly.

Mr. Patterson. I am trying to give it to you.

Mr. Denison. Why could they not change shifts, and work part of the boys eight hours and the other part three hours?

Mr. Patterson. I submit to you that that is an impracticable proposition for this reason.

Mr. Denison. That is what I want to know.

Mr. Patterson. In order to do that, supposing you are working 60 hours a week, and you work one set of children 30 and another 30, you would still be working children. You could not work them five hours, or an average of five hours, and do that without interfering with school business, and still they would only be making one-half wages. It is a very mistaken idea that cotton mills are coining money. It is a very mistaken idea.

Mr. Denison. I certainly did not imply anything of that kind in the question I asked you, and I just wanted to know whether or not the mills could adjust themselves in a practical way to this law without suffering serious injury.

Mr. Patterson. The only way I see to obey that law if it is enacted, is to simply say to our people, "We hate very much to do this, but you will have to move out of our houses," those with young children, and get people who have no children under 16 years of age. You are talking about Massachusetts. I want to call your attention to the fact that in 1880 the South had approximately one-half million spindles. Now, it has approximately 13,000,000—twenty-six times as many as it had in 1880; whereas Massachusetts, under present conditions, has gained very little in the last five or six years.

Mr. Nolan. Why would it not be possible—of course you are a practical man, but your answer has not satisfied my mind as to why it would not be practicable with these younger children to work a child 5 hours a day instead of working them 10 hours a day.

Mr. PATTERSON. It would be practicable, if our business permitted our going to that expense.

Mr. NOLAN. What additional expense, except in providing houses, would there be?

Mr. PATTERSON. Our boys are working by the hour—all of our people work either by piecework or by the hour. We have boys down there 14 and 15 years old making $1.50 a day; and right along here before I forget it, I want to say in regard to the increase in wages, when we built our mill—the first mill at Roanoke Rapids, we paid darkies—negro laborers—60 cents a day, and we worked them 12 or 13 hours; worked them from sunup to sundown in the summertime, but today a darky would laugh at you if you asked him to work for a dollar a day; it has gone to a dollar and a half a day. Gentlemen, that increase is not due to the work of the national child labor committee.

Mr. NOLAN. Pardon me for asking another question in connection with the one I asked.

Mr. PATTERSON. Yes.

Mr. NOLAN. You say if you wanted to go to the extra expense: Do you mean that you could not get these younger children to work half a day unless you paid them more money?

Mr. PATTERSON. That is what I mean exactly. Not only that, but it would mean you would have to get additional tenement houses.

Mr. NOLAN. If you start a child at 6.15 in the morning and work him until 7 o'clock at night, you give him mighty little daytime for recreation.

Mr. PATTERSON. We do not do that. Let us get down to the actual facts in the case. Our mill starts at 6.30 in the morning, and we work until 6; not until 7.

Mr. SMITH. What time do they have for lunch?

Mr. PATTERSON. In this mill it is 30 minutes, because the mill is five-eighths of a mile from the village and the lunches are carried down by a large wagon every day; the lunch baskets are carried down to the mill in a wagon.

Mr. NOLAN. At this season of the year they would go to work in the dark, leave work in the dark, and get home pretty nearly in the dark, would they not?

Mr. PATTERSON. Yes; that is true at this season of the year.

Mr. NOLAN. That is pretty hard on a child of that age. I believe this: I am not opposed to child labor——

Mr. PATTERSON (interposing). Well, I am.

Mr. NOLAN. I had to go to work when I was 5 or 6 years old, and I had to work all the time, and the boys who grew up around in my country, more of them went to the bad from not working than those who had to work; but we worked under somewhat different conditions. Now, I am trying to find out if it would not be possible to let these children work some, and yet give them some little more play than before 6.15 in the morning and after 6 o'clock at night.

Mr. PATTERSON. May I ask you a question, please?

Mr. NOLAN. Yes.

Mr. PATTERSON. Why did you go to work when you were so young?

Mr. Nolan. There were two reasons: One was that it was necessary for me to do so, and the next was that my father thought it was a pretty good thing for a boy to work a little bit.

Mr. Patterson. Now you have the milk in the coconut—because it was necessary.

Mr. Houston. You have given a graphic description of what would happen in case children under 14 or 16 years of age could not work in the mills. Can you tell us what proportion of all children in your State between 14 and 16 years of age work in the mills, and what the others do who do not work in the mills?

Mr. Patterson. It is a very small proportion.

Mr. Houston. The other children get along without this work in the mills, do they not?

Mr. Patterson. Yes, they do; work on the farms.

Mr. Houston. One in a hundred, would you say?

Mr. Patterson. It is a larger percentage than that.

Mr. Houston. It is a little larger than that, is it not?

Mr. Patterson. Yes.

Mr. Almon. You made the statement that the mill owners in New England, and especially in Massachusetts, fought the child-labor law for a good many years?

Mr. Patterson. Yes.

Mr. Almon. And you said that now it has gotten them into trouble?

Mr. Patterson. I did not say it has gotten them into trouble. I said there was no reason why they should get other people into trouble because they were.

Mr. Almon. You realize the fact that this bill does not alone affect the cotton mills, do you not?

Mr. Patterson. Yes; if the provisions of the bill are carried out.

Mr. Almon. And that it affects mines and paper-box manufacturers and candy manufacturers; in fact, all lines of industry, including canneries?

Mr. Patterson. We have no mines of any importance in North Carolina, nor any canneries.

Mr. Almon. Leaving out that section, this bill is intended to cover all lines of industry all over the United States.

Mr. Patterson. Yes; I understand that, and I do not want you to think for one moment that I think the advocates of this bill are not perfectly sincere. I believe with all my heart that they are sincere, but at the same time I know just as little about mines as you know about cotton mills, and probably a little bit less.

Mr. Almon. Well, I will plead guilty of not knowing much about the workings of either.

Mr. Patterson. If you believe the stories that have been printed about the poor cotton-mill child, and if you believe the cartoons that have appeared in the papers, and all about the poor little half-starved things, and if you have seen the reel that was put on and went all over the circuit, called " The blood of the children," where three or four or five of them—I have forgotten now—died of galloping consumption in 15 minutes, then I do not wonder that you might try to enact any law on the face of the earth. If I had believed all that rot, I would want to burn every cotton mill in the country. That was the most overdrawn thing on the top of the earth, and right now I want to tell you that I am chairman of the executive committee of the southern cotton manufacturers, and I am authorized by the southern cotton manufacturers not only to invite this committee, but to urge in every possible way I can, and insist in every possible way we can, and almost to blindfold you and drag you, if it be necessary, to go down to the cotton mills of North Carolina and see for yourselves. I want to go on record as saying that we want you to come as a committee, as a whole, or any subcommittee you might appoint, and come down there and see for yourselves how these people live, and go around among them and talk to them—any of them—talk to all of them, and you can see for yourselves whether all that rot is true or not.

Mr. SUMMERS. As guests of your committee?

Mr. PATTERSON. Yes; as guests of our committee. We will give you a private car and you can go where you please and when you please, and talk to anybody you like, and see whether these boys and girls down there are mistreated.

Mr. ALMON. Getting back to the statement you made that the employees themselves had, by vote, requested an 11-hour day——

Mr. PATTERSON (interposing). Yes.

Mr. ALMON. What were the conditions before that vote was taken?

Mr. PATTERSON. You know for a long time North Carolina had no labor laws at all; I mean by that that they worked as long as they wanted to—69 hours a week. That is how long I worked, and I am like Mr. Bradley, if it stunted my growth any I am glad it did.

Mr. SMITH. How long have you been working in the mills?

Mr. PATTERSON. Since I was 12 years old—during vacations—and I went in the blacksmith shop when I was 16.

Mr. ALMON. At the time this vote was taken, what were the hours per day at that time?

Mr. PATTERSON. The hours were changed when the laws in North Carolina were 66 hours a week. We changed our working hours to 63, and then when the law was changed to 60 hours a week a delegation of the help came in and said they wanted to work 11 hours a day for 5 days.

Mr. ALMON. When they were working 63 hours a week, how did you apportion that to each day?

Mr. PATTERSON. We worked until 2 or 3 o'clock in the afternoon on Saturday.

Mr. ALMON (interposing). On Saturdays?

Mr. PATTERSON. Yes.

Mr. ALMON. And 11 hours every other day?

Mr. PATTERSON. Yes.

Mr. ALMON. Then you were not changing the conditions of the first five days?

Mr. PATTERSON. No.

Mr. ALMON. Only on Saturdays?

Mr. PATTERSON. Yes.

Mr. ALMON. But they were working 11 hours a day at that time?

Mr. PATTERSON. Yes.

Mr. ALMON. So that they were not seeking to go from a 60-hour week of 10 hours a day to 5 days of 11 hours, and 5 hours?

Mr. PATTERSON. If our people wanted to work 10 hours every day in the week we would be very glad to do it.

Mr. ALMON. You did not have a 10-hour day covering the 60-hour period?

Mr. PATTERSON. No.

Mr. ALMON. You had been working 11 hours a day right along?

Mr. PATTERSON. Yes.

Mr. ALMON. They did not request you to go from 11 hours a day 5 days a week to 10 hours a day 5 days a week, and half a day on Saturdays?

Mr. PATTERSON. No; they just asked for half a day on Saturday.

Mr. KEATING. How many mills have you, approximately, in North Carolina?

Mr. PATTERSON. About 400. I think; three hundred and forty-something, approximately. The secretary of the North Carolina Cotton Manufacturers' Association is here, and he probably knows.

Mr. MILLER. Three hundred and fourteen.

Mr. KEATING. How many factory inspectors are employed by the State of North Carolina to superintend your industries?

Mr.. PATTERSON. There are no factory inspectors employed by the State of North Carolina as only factory inspectors. The superintendent of public instruction is our factory inspector, and we went to our superintendent of public instruction and invited him to come down and inspect the factories. We did the same thing with different bodies of ladies in our town; we asked the King's Daughters to send a committee through the mills; we asked the Civic League to send a committee through the mills; we asked the ministers of every church in our vicinity to come in and inspect the mills.

Mr. KEATING. When had the superintendent of instruction been in your mill prior to this invitation?

Mr. PATTERSON. Well, he had not been at all, because I invited him at a time designated by the law for him to come.

Mr. KEATING. When was that?

Mr. PATTERSON. Soon after the meeting of the last legislature in North Carolina.

Mr. KEATING. Prior to that you had no factory inspectors?

Mr. PATTERSON. No. It is a mistaken idea, though, that the cotton mills in North Carolina fought inspection as inspection. The trouble with the Weaver bill last year was that they wanted to put the inspection in the hands of the commissioner of labor and printing, and we knew the commissioner of labor and printing was unfriendly to mill interests of North Carolina; we had every reason to believe that. The committee of the manufacturers said to Gov. Craig, "If you will put this in the hands of Dr. Joyner, State superintendent of public instruction, we will be perfectly satisfied and willing to have him make an inspection of our mills."

Mr. KEATING. Did you make that request because you considered the doctor friendly to your interests?

Mr. PATTERSON. We did it for this reason: We thought as long as they had passed a compulsory education law covering ages from 8 to 12, and truant officers were supposed to be in charge of children of that age, it would naturally come under his department.

Mr. KEATING. And the governor placed it where the mill owners requested that it be placed?

Mr. PATTERSON. No; he did not.

Mr. KEATING. Did the legislature do that?

Mr. PATTERSON. No. They compromised by saying—for financial reasons they said, "We will make the superintendent of public instruction of the schools inspector, to save the expense of a regular inspector."

Mr. KEATING. Well, that was according to your request, was it not?

Mr. PATTERSON. No, sir.

Mr. ALMON. He means the county superintendent.

Mr. PATTERSON. We said if you want inspectors, to put it under the control of the State superintendent of public instruction; that is, Dr. Joyner, and Dr. Joyner is a man of such high integrity no one would question it.

Mr. COOPER. They were put under the control of the county superintendent?

Mr. PATTERSON. Yes.

The CHAIRMAN. Are there any other questions of Mr. Patterson?

Mr. DENISON. I want to ask you, Mr. Patterson, this question: Is there anything connected with the work in the textile mills that is hazardous to those working there?

Mr. PATTERSON. I can not say that there is nothing that is hazardous.

Mr. DENISON. I mean, is there anything about the machinery that a child can get hurt or suffer an accident or personal injuries?

Mr. PATTERSON. They can get hurt, but I do not consider it hazardous, because they can get hurt anywhere. A child is in very much more danger if he is on the farm, standing behind a mule, than he is in a cotton factory.

Mr. DENISON. I have had that experience, but I never worked in a textile mill. I know something about the hazard with a mule. I want to throw a little light on the legal aspect of it, if I can, and find out if there is any machinery there in that business that a child can get its hands cut in?

Mr. PATTERSON. In the regular performance of her duty, it is not dangerous.

Mr. DENISON. I beg your pardon.

Mr. PATTERSON. I say there is nothing in the regular performance of a child's duty that is in any way dangerous. If she—in order to get hurt, she will have to be doing something that her duty does not require her to do. The best way I can prove that is this: The rate on accidents in factories is very much lower—liability insurance in factories is very much lower than it is on a farm.

Mr. DENISON. I know; but is that because of efficient management of the factories or because of the fact that there is no dangerous machinery there?

Mr. PATTERSON. I do not think that any man on earth could go so far as to say that there is no danger where there is any machinery of the kind that is revolving, where a child can deliberately go and get hurt in it, but I think if you will take the number of people employed in cotton mills, in proportion, I think there are fewer accidents there than there are on the farm.

Mr. DENISON. That is your judgment, is it?

Mr. PATTERSON. It certainly is; because I think the liability insurance companies, who pay attention and keep statistics on those lines, would know about those things, and you can get very, very cheap liability insurance for cotton-mill employees.

Mr. DENISON. Is it your judgment that there is nothing about this business—this cotton-mill business—that is extrahazardous for children?

Mr. PATTERSON. There is nothing about the cotton-mill business that is extrahazardous for children; and I will say, further than that; I will say if I had a boy—if I were disabled and it became necessary for some member of my family to go to work, and I had a boy 14 or 15 years old whom I had to put to work, and he had to do something to support the family, I would rather put him in a cotton mill than anything I know of, because, as some one said here a minute ago, it is a kind of an industrial school. He soon learns a trade, if he is bright, and they can not take that away from him, and it enables him to make a good living anywhere. Now, they say there is no chance for advancement or promotion in a cotton mill. That is silly. I went to work in a cotton mill for the same reason that the gentleman on my right did—because it was necessary. I worked up from the blacksmith shop to president of a mill, and I know that any other boy with average intelligence and close application can do the same thing. Our superintendent is a man who worked in a mill as a doffer boy when he was 12 years old. Our assistant superintendent is a man who worked in the mill when he was very young—probably 12 or 13 years old—and every one of our overseers, without a single exception, have been men who have gone to work in the mill at a very early age.

Mr. ALMON. What educational advantages did you have?

Mr. PATTERSON. I went to a military school until I was 16. At that time I was ready to enter the sophomore class at college, but I could not go through college, and at that time I was very small for my age. I went in the blacksmith shop, and I began to grow.

Mr. HOUSTON. You say you started in the mill at 12?

Mr. PATTERSON. During vacations.

Mr. HOUSTON. How many months did you attend school in those four years between the ages of 12 and 16?

Mr. PATTERSON. During the regular school term.

Mr. HOUSTON. You went into the blacksmith shop at the age of 16?

Mr. PATTERSON. Yes.

Mr. HOUSTON. And became superintendent at 19?

Mr. PATTERSON. Yes.

Mr. HOUSTON. Did your people have any financial interest in those mills?

Mr. PATTERSON. I worked for my uncles and the highest they ever paid me was 75 cents a day. I jumped from 75 cents a day to $1,200 a year.

Mr. ALMON. While you are on the witness stand, I would like you to say about how much time would be required for the committee to make a reasonable inspection of the mills to which you have referred, in line with your suggestion that the committee make a visit there.

Mr. PATTERSON. I am glad you brought that subject up.

Mr. ALMON. The committee might desire that information if they should care to consider accepting the invitation.

Mr. PATTERSON. The manufacturers of the State of North Carolina, especially, have been accused of having certain show mills, and it has been said that when anybody gets up to talk about cotton mills, they would talk about those show mills, so now, as a perfectly fair proposition, I want to say that if any member of the National Child Labor Committee—my friend Mr. Swift or Dr. McKelvey—will pick out three mills that they want you to visit, we will pick out three that we want you to visit, and we will take you to see them, and then you can go where you wish to; you can talk to the people, or you can go as a committee to the mills without anybody knowing anything about it—without the manufacturers knowing anything about your visit.

Mr. **Almon**. About how much time would be required to visit, say, six or seven mills?

Mr. **Patterson** I talked it over with the railroad officials the other day, and they thought the best scheme would be this: You could leave Washington on Sunday afternoon and go down on the steamer to Portsmouth. You could get a private car there—a compartment car, they suggested—and go down to Roanoke Rapids, which is a three-hour ride. You can look over the mills there in two or three hours—we would be glad to have you stay as long as you please—visit every home there if you want to, and then from there you could go to Henderson, N. C., where there are very large cotton mills; and from there to Durham, N. C., where there are very large cotton mills; and from there to Greensboro, N. C., where there are very large mills; and from Greensboro to Charlotte, where there are very large mills; and from Charlotte to Greensville, where there are also large mills; and if necessary, from Greenville you could come right back to Washington on the Southern Railway.

Mr. **Almon**. How many days would that trip require?

Mr. **Patterson**. I should say it would take about three or four days. I am very exceedingly anxious to have you do it, and the manufacturers of the South want you to do it. At a meeting held at Greenville this matter was suggested, and I was urged to urge the committee in every way possible to take this trip as guests of this committee—our committee I mean; the executive committee—through the South and acquaint yourselves with the real conditions in the cotton mills. I think it is a perfectly fair proposition. We want to go on record as extending you that invitation.

The **Chairman**. Gentlemen, are there any further questions you care to ask Mr. Patterson?

Mr. **Patterson**. There is one other thing I just want to mention, gentlemen, and that is in regard to this matter of a comparison between the help in Fall River and the help in the South. Now, it is not my purpose here to say anything against the Fall River manufacturers. A great many of them are friends of mine. But you know as well as I know that when a man builds a six or seven or eight story tenement house for the purpose of renting rooms he is in it for business, and he is no respector of persons. If they do not pay their rent, they are put out; that is all there is to it. And the overseers in Fall River do not know their help; they can not know their help as the southern men do. I go down to the mill at Roanoke Rapids at half past 6 in the morning. I do not expect them to get there any earlier than I do; and there are very few of them that I do not know by name. We know who they are and what they are, and we know their conditions in life, and we know that they are people who if they are let alone will work out their own salvation;

and everybody, I think, recognizes that the South has improved as rapidly as any other section. There is another thought to which I would like to call your attention. I would like to know if there are any other industries in the United States, with the exception of the manufacturers of certain specialties, who do more for their help in the way of welfare work than the cotton mills? Of course, there is not the possibility of profit in cotton manufacturing that there is in manufacturing automobiles. We can not do like Mr. Henry Ford—pay everybody $5 a day, sweepers and all; that is impossible. We can not pay the wages that the National Cash Register Co. pays.

Mr. COOPER. While you are on that subject of what you do for the conditions in your mill, you were talking a while ago about the provisions you had made for caring for the sick.

Mr. PATTERSON. Yes.

Mr. COOPER. You spoke about a fund for furnishing doctors, medicine, and nurses, and so forth.

Mr. PATTERSON. Yes.

Mr. COOPER. And you said that by a vote of the operatives they had agreed to give something like 5 per cent.

Mr. PATTERSON. No; 5 cents a week.

Mr. COOPER. Five cents a week?

Mr. PATTERSON. Yes.

Mr. COOPER. Which amounted to about $2.50 per year?

Mr. PATTERSON. Yes.

Mr. COOPER. Then you said the county paid $100 into this fund?

Mr. PATTERSON. Yes; and the town.

Mr. COOPER. And the town?

Mr. PATTERSON. Yes.

Mr. COOPER. And other individuals had paid?

Mr. PATTERSON. Yes.

Mr. COOPER. Is any of that fund paid by your company?

Mr. PATTERSON. The mill pays a hundred; every mill in town pays a hundred. I pay a hundred myself.

Mr. COOPER. You do that individually?

Mr. PATTERSON. Yes.

Mr. COOPER. Each company, then, pays $100?

Mr. PATTERSON. Each company pays $100; yes.

Mr. COOPER. I was trying to get at who furnishes that fund.

Mr. PATTERSON. You have it now.

Mr. COOPER. Yes; I have it from your last answers.

Mr. PATTERSON. In addition to what the laborers contribute to it—the small sum of 5 cents a week—and it is only those who make over a dollar a day. If a man has eight children, and there are only two of them in the mill, that hospital privilege extends to his entire family or any man who is under his roof.

Mr. COOPER. You say each mill pays $100?

Mr. PATTERSON. Yes.

Mr. COOPER. What proportion of this fund is paid by your mills?

Dr. LONG. The operatives pay 50 per cent and the corporations pay the balance. It costs $6,000 a year to run these institutions, and the mills give $3,000.

Mr. COOPER. The mills pay 50 per cent of it?

Dr. LONG. The mills and individuals, like Mr. Patterson.

Mr. Cooper. No. I do not want that mixed. What proportion is paid by the mills—the companies running this business for profit?

Dr. Long. About 50 per cent of it is paid by them.

Mr. Cooper. That is more of a benefaction coming from the public than it is from the mill companies?

Mr. Patterson. We could very readily cut off our subscription and charge it to the mill if we felt like doing that, but I am personally interested in the work myself.

Mr. Houston. The mill and the officers and stockholders pay half of it; is that it?

Mr. Patterson. Yes; the mill and the stockholders and the officers pay half of it.

Mr. Houston. That is, individually and as a corporation, as much as 50 per cent altogether?

Mr. Patterson. Yes. Now, that hospital is not what you would imagine you would find out in the country. They perform any kind of an operation there. Dr. Long will tell you how many major operations they had last year. They performed innumerable operations for appendicitis. They have been wonderfully successful. I know one of our doctors performed 60 operations for appendicitis before he lost a single case. Our doctors are not old fashioned, out-of-date people. We have one doctor from the Polyclinic in New York, and one from the Polyclinic in Philadelphia, and another from the Goveneur, in New York, and they are men who have been house surgeons in those places, and have come down there.

Mr. Keating. Were any of these operations performed upon children between 14 and 16 years of age?

Mr. Patterson. A good many, were there not, Doctor?

Dr. Long. Yes; some of them; all ages.

Mr. Almon. And a lot on children 5 years.

Mr. Smith. Who controls this hospital?

Mr. Patterson. There is a board of directors composed of the managers of the different cotton mills and the managers of the paper mills, together with four doctors.

Mr. Smith. Is the county represented?

Mr. Patterson. Yes; the county it represented.

Mr. Smith. Is ther any other county institution there?

Mr. Patterson. No.

Mr. Smith. Is there any private hospital?

Mr. Patterson. No. When the county pays this $100 a year, they have a right, if they so elect, to send any charity patient to the hospital, up to that amount of money. You see what I mean? In other words, they have a $100 worth of treatment, so to speak. I have the same right. If I choose, I can take an outsider, who does not work in the mill, and send him there for a $100 worth of treatment to cover my subscription to the hospital. The doctors there are instructed that in case of an epidemic—diphtheria, for instance—to go ahead and give antitoxin to anyone to whom they think it is necessary, and the mill bears that expense. We had a smallpox epidemic—not an epidemic, but quite a number of cases—and the mills paid one-half, and the town one-half. As long as the mills pay about 95 per cent of the taxes, that means the mills paid practically all. A few places there, were considered very unhealthy, and we asked the State officials to come up and see what was necessary to be done in order to get rid of the malaria.

The CHAIRMAN. The State board of health?

Mr. PATTERSON. Yes. They said they were too busy, or they did not get there, or something, and we applied to the Nation.

Mr. ALMON. You applied to whom?

Mr. PATTERSON. The Federal Government; and they sent the same man down there that they sent down to the Panama Canal; they sent Dr. Carter, and a great many others, and they told us what to do, with the result that under Dr. Long's supervision, we did about 11 miles of ditching, was it not, Doctor?

Dr. LONG. Yes.

Mr. PATTERSON. And we oiled those ditches, with the result that we practically eliminated the mosquitoes and malaria, and the health there is wonderfully improved. In regard to sanitary conditions, we have not had a single case of typhoid fever in the corporate limits of that town for two years now.

Mr. KEATING. Did you state that the mill company and the stockholders in the mill company own 90 to 95 per cent of the taxable property in that town?

Mr. PATTERSON. I think it is 90 to 95 per cent; is that not right, Doctor?

Dr. LONG. Yes.

Mr. KEATING. So that if the town, as is done in other municipalities, were supporting this hospital, the fact is that the men who own that property would have to pay 90 to 95 per cent of the total cost of supporting that hospital, is it not?

Mr. PATTERSON. Yes.

Mr. KEATING. And these mill operatives, not owning very much taxable property, would pay practically nothing?

Mr. PATTERSON. Yes.

Mr. KEATING. I have no desire to reflect upon the philanthropy of this thing at all, but I think it should be clear in the record that in adopting the method which you have to support your hospital, you are simply avoiding the responsibility of taxpayers to maintain a hospital in a municipality.

Mr. PATTERSON. Not at all; for this reason: I do not know of a half a dozen towns in the South, of our size, that have hospitals.

Mr. KEATING. There are a great many in other sections of the country.

Mr. PATTERSON. We could have continued to do as they did before we got the hospital. Whenever they had a case of appendicitis to send them to Norfolk—we are in three hours of Norfolk—or to Richmond; it is three hours to Richmond also.

Mr. ALMON. What is the population of your town now?

Mr. PATTERSON. Forty-five hundred to five thousand.

Mr. SMITH. How many operatives are employed in the mills?

Mr. PATTERSON. About five hundred and something on the pay roll. I imagine there must be about 475 actually at work in the Roanoke mills. The Rosemary mills, I imagine, employ 650 and the Patterson mill about 300, and then there are three paper mills that employ labor.

Mr. SMITH. Are their employees taxed the 5 cents per week on the same basis?

Mr. PATTERSON. Yes, sir.

Mr. SMITH. About fourteen or fifteen hundred cotton-mill employees?

Dr. LONG. Yes.

Mr. SMITH. How many paper-mill employees?

Dr. LONG. In the paper mill they do not work near as many people as in the cotton mills. They work no children; they are all men.

Mr. VAN DYKE. Do you not think an ideal condition would prevail in so far as children are concerned between the ages of 14 and 16 years, if they were allowed to work in two shifts, five hours and six hours, and spend two or three hours a day in acquiring an education?

Mr. PATTERSON. I think an ideal condition would prevail if children between 14 and 15 did not have to work at all.

Mr. VAN DYKE. We understand that; but allowing that they do have to work in order to sustain themselves?

Mr. PATTERSON. It would be better—I do not hesitate to say it would be better, but at the same time it would interfere with their school duties. A child is not going to work five hours a day and then go to school for three hours a day.

Mr. VAN DYKE. If the proper incentive were there I think they would.

Mr. PATTERSON. I do not think so. We have free night schools, as well as day schools.

Mr. VAN DYKE. You have?

Mr. PATTERSON. Yes. And more than that, we have encouraged the boys. They are members of the Boy Scouts, and we furnish them uniforms free. They have reading rooms and so on.

Mr. VAN DYKE. Do you not think it is rather hard for a child of that age to work 11 hours a day and then go to night school?

Mr. PATTERSON. Ordinarily, if one did not know anything about the business they would say "Yes." It is certainly a hardship for a boy 14 or 15 years of age to plow 11 hours a day; there is no question about that; but I want you to distinctly understand this, that these boys are not working 11 hours a day.

Mr. VAN DYKE. I means the girls, too.

Mr. PATTERSON. Well, the girls are not working 11 hours a day either. They are in the mill 11 hours a day, but they are not working all the time.

Mr. VAN DYKE. But they are confined to the mill all the time?

Mr. PATTERSON. Yes; they are confined there, but they are not actually working 11 hours a day. They are not working half of that time. They are there, and their duty is, when a thread breaks they go and take out the bobbin, which weighs about 2 ounces when it is filled, take that bobbin off the spindle and put up or mend up that broken thread. That is their business. The greatest amount of weight that they have to lift in the performance of their duties at any time during the day does not exceed over a pound and a quarter, and, as Mr. Bradley said, it is perhaps very much less than that.

Mr. VAN DYKE. No matter how easy or otherwise their duties may be, nevertheless, it takes them away from school.

Mr. PATTERSON. Yes.

Mr. VAN DYKE. And any chance of acquiring an education.

Mr. PATTERSON. It does take them away from school; yes. You will find statistics will show—I have not all of them here, but we hope to have them here to-morrow—statistics will show that as these people progress, and as their financial condition improves, that there are fewer children each year in the cotton mills. I think Mr. Gossett here, from South Carolina, will tell you that is the experience in South Carolina. I know it is in the mills in Greenwood. A member of our committee got up a lot of data on that subject, showing that there are fewer women working in the mills each year, and fewer children, as they progress and get better off financially. Child labor automatically abolishes itself. If you can legislate poverty out of existence, you will legislate child labor out of existence.

The CHAIRMAN. Gentlemen, have you any other questions?

Mr. PATTERSON. I think Dr. Long will bear me out in saying—he is a mill physician employed by the mills, and paid a salary, and he treats everybody who lives in the mill houses free of charge—he will tell you that instead of being employed in the cotton mills hurting these people, it helps them. Now, I do not mean to tell you for one moment that we can take any member of this committee out of a comfortable home and put him in a cotton mill and help his health; I do not mean to imply that; but I mean, take a person who is living in the country under unsanitary conditions—and they nearly all do that—and bring him to that mill village, and his children will actually improve in health. I want to go on record as saying that, without any reservations, they improve in health, and we have no consumptives in the mill, despite what may be said to the contrary. We have none. We have children of some consumptives working in the mill. I have in mind now a family by the name of Bray. Mr. Bray had consumption and could no longer make a living on the farm, so he moved to the mills, and his children are working in the mills, but they show no signs of consumption, so far as I know. I do not consider that cotton mill work hurts the average child. Another thing, about the hygienic conditions. We have in the mill—I mean the ventilation, etc.—we have in the mill the same thing that Mr. Fitzgerald told you about. Our mills are ventilated by the fan system, and those fans can remove every cubic foot of air in the mill every 30 minutes. In addition, we have automatic humidifiers, so that we keep the same degree of humidity all the time. If it gets too dry, the machines automatically work. When it gets damp in the room, the machines shut off automatically, so the condition of the atmosphere in the mill is more scientifically governed than it is in a great many of the best private houses in the State, and better than in this room right now.

The CHAIRMAN. Mr. Patterson, are you through?

Mr. PATTERSON. Yes, sir; I am through.

The CHAIRMAN. The committee is very much obliged to you.

Mr. NICHOLLS. I am Congressman from the fourth district of South Carolina. I may not be able to be with your committee at any other time, as our committee is busy too, but I want to make one statement to the committee with reference to certain petitions that have been sent in here. I have quite a number of petitions that have been sent to me, which have not been presented, but which I shall take pleaure in showing to the committee if they want to see them. The question has been raised as to how these petitions were gotten up. I am not speaking about any petitions except the ones I have, but I can speak for those petitions. It is needless to go into past political history in South Carolina. I have but to say this: That so far as my politics are concerned, the men who operate the mills, the presidents of the mills, and the superintendents of the mills have always been absolutely opposed to me in politics, as a rule, and that the actual men who operate—the actual workers—is where I have secured my support; so naturally I am in somewhat closer touch with them than the man who owns the mill. When this bill was introduced last year I got a copy of it, and all during the campaign I asked different people—not superintendents, not bosses, as they call them, but the men who actually work in the mills—what their position would be in this matter, and invariably, with possibly one exception, they told me that they absolutely could not live under a 16-year limit. They asked me how was the best way to "kill the bill," as they expressed it. I told them that I did not know how to kill that bill, but it would help if they would get up a petition among themselves and send that petition to me and I would present it to Congress. Now, I am not going to make any argument pro or con for the bill; I am not here for that purpose; I may do it on the floor of the House; I do not know; but I know that the petitions that I have come from the actual workers at the instigation of nobody but myself, and further, if I thought this would benefit the worker any, even to the detriment of the men who own the mills, I would be standing shoulder to shoulder with you trying to pass the bill. So far as the petitions which I have are concerned, that is how they came to be presented.

The Chairman. The committee will be glad to have any petitions you care to present.

Mr. Nicholls. Thank you.

Mr. Byrnes. I have a number of petitions from the cotton-mill operatives, and in as much as the question was raised during the statement of Mr. Sherrard as to the manner in which these petitions were secured, I desire to say that during the recess last fall I had occasion to visit the cotton-mill towns in my own county—four of them—where I discussed this matter with, I suppose, a hundred different men, and if the management had forced the operatives to sign the petitions forwarded me, my relations with the operatives are so friendly I know they would not have hesitated to inform me of the efforts on the part of the management to influence or coerce them into signing the petitions.

I have never heard a man in South Carolina or North Carolina, engaged as an operative in a mill, who was in favor of this legislation. I have never failed, in talking to them, to find every last one of them opposed to it. I have several petitions which I have not even dropped in the basket, because I intended to come before the committee at the proper time and make that statement, and I want to say as to their voting—as to their signing the petitions under duress—that, as Mr. Nicholls has intimated, in South Carolina the average man in public life is friendly with the operative and not with the boss. Of the five mills in my county, I know the superintendents of two of them, but I know nearly every operative or worker in the mills by name. If he had been equally frank, I think he would have told you that so far as concerns the bosses coercing them, or getting them to sign a petition, that if the operatives got it into their heads firmly that the superintendents or the overseers wanted them to sign a petition, that would be the last thing in the world they would do.

Mr. NICHOLLS. That is what elected me to Congress—the operatives.

Mr. BYRNES. Because the bosses were against him. And I would no more dare to go around with the bosses if I wanted to get to Congress than I would to get up and make a speech on the degeneracy of cotton-mill operatives of South Carolina. It would be equal to that. There is no danger of these petitions having been drawn up by the bosses in the mills.

Mr. AIKEN. I represent the third district of South Carolina, and I can only confirm what Mr. Byrnes has said as relating to the conditions in my district. I suppose there are nearly fifty mills in my district and nearly all of them large mills. I made it a point last summer to visit everyone of them, and I talked to a majority of the operatives about this very bill, and I did not hear a single man say he was in favor of it. Every man was opposed to it, and frequently they asked me about the advisability of getting up a pétition. I told them I thought that was the thing to do, and that if they would send the petitions to me or send them to anybody—Senators or any other Members of Congress—that I knew your committee would get them; and, as Mr. Byrnes says, I am sure that if the average operative thought for a moment or suspected that the superintendent or the mill management wanted such a petition gotten up they would not sign it. I have quite a large number of petitions in my office, and I will either present them through the House or deliver them to the committee.

The CHAIRMAN. The committee will be glad to receive them.

Mr. DENISON. Do you find that antagonism exists down there between the operatives and the operators or owners of the mills?

Mr. AIKEN. It is not so much antagonism, but when it comes to politics, the operatives are generally on one side and the management on the other. I believe my colleagues in the House will bear me out in that.

Mr. DENISON. They consider this a question of politics, do they?

Mr. AIKEN. Well, I do not know that they consider it a question of politics, especially, but anything that has to do with Congress or with the legislature or anything of that sort—the enactment of any amendment—you will generally find the operatives on one side and the managers on the other.

Mr. SMITH. You received quite a number of petitions from your constituents?

Mr. AIKEN. Yes.

Mr. SMITH. Do you know whether they were drafted by mill operatives or by the management?

Mr. AIKEN. I know that the majority of them, of what I have, were drafted by the operatives themselves and gotten up by the operatives themselves, upon their own initiative or motion. I do not think the management had anything to do with the petitions that I have at all.

Mr. PATTERSON. I was asked a question awhile ago, and I could not at that time give the data. It is contained in volume 4 of the 1910 United States census, on occupation statistics for North Carolina as regards between 10 and 13 years of age. Total engaged in gainful occupations, 53,457; engaged in agriculture, 47,884; hired out for farm and dairy work, 7,560; in the cotton mills as bobbin boys, doffers, carriers, and spinners, mainly, 2,304. In other words, out of 53,457 boys engaged in gainful occupations only 2,304 were in the mills. That is the boys. Now, for the girls, there were 30,822 engaged in gainful occupations; the number engaged in agriculture was 26,196; hired out for farm and dairy-farm work, 3,648; in the cotton mills as spinners, winders, spoolers, weavers, and knitting-mill operatives, 2,319. These figures show that out of 84,279 children employed in gainful occupations only 4,623, or 1 out of 16, were employed in cotton mills.

The CHAIRMAN. Mr. Long, please give the committee your name, age, residence, and occupation.

STATEMENT OF MR. ALEXANDER LONG.

Mr. LONG. My name is Alexander Long; I live at Rock Hill, S. C.; I am 57 years of age; and am president and treasurer of the Aragon Cotton Mills and the Arcade Cotton Mills.

The CHAIRMAN. Mr. Long, have you anything to add with respect to the bill which the committee is considering, the purpose of which is to limit child labor in factories to 16 years in some instances and to 14 years in others?

Mr. LONG. I can only repeat a great deal that has been said by representatives from other States. I am from a different State from most of the people you have had, but conditions in our State are fully as good as they are in other States, so far as mill work is concerned.

At our special mills they are as good as anywhere. I have two mills. We work at the two mills about 375 hands; that is, at the two mills together. We have at the Aragon Cotton Mills 5 males and 8 females under 16; that is, 13 altogether. Out of 200 hands we have 13 who are under 16 years of age. At the Arcade Mills we have 175 hands, and we have 7 males and 7 females under 16 years of age; 14 out of 175. Now, our mills are up to date in every respect; sanitary conditions are as good as they could be; we have up-to-date sewers; we have a well-equipped village in every way. Once a week our garbage is carried off; disinffected in every way; we have day schools; three teachers at each mill in the day school and three teachers at night. We have at the Aragon Mills, for instance, with a population of 425 people, 70 attendants at the night school, with three teachers there. Half of that night school is supported by the city and half by the mill.

The CHAIRMAN. Are your employees altogether white, Mr. Long?

Mr. LONG. What did you say?

The CHAIRMAN. Are the employees of your mills altogether white?

Mr. LONG. They are white, except about four or five yard hands and waste hands. I think there are about five darkies. The balance are all white. Colored men are not allowed to work in the mill except for cleaning out waste or as truck hands. That is the same way all through our State. There is not a single mill in the State that employs colored labor, except where they can not get white labor for the purpose.

The CHAIRMAN. In a general way, Mr. Long, how is this legislation going to affect, first, the financial interest of your manufacturing companies, and, second, how is it going to affect the general welfare of the children who are employed in your mills, or the parents of the children who depend upon them?

Mr. LONG. You can see there from my report that there are not a great many families affected, but every one of those families has, of course, one or more workers in it. If they had to move away—which they would do—it would take double the number of workers. In that way we would have trouble in keeping our machinery going. Of course, I think we could in time adjust ourselves to it, but, probably, in my opinion, for a while it might stop 20 per cent of our machinery; not 20 per cent of our hands, but those hands would all come out of one room. We have not a child in any room except in this spinning room. The card room has all grown people and the weave room is all grown people. That would stop 20 per cent of our spinning and, naturally, that would stop 20 per cent of the whole mill until we could get enough spinners above 16 years of age.

Mr. NOLAN. How are your employees apportioned as between the three departments in the mill?

Mr. LONG. You mean the number of them?

Mr. NOLAN. Yes. Take a mill of 100 employees. How many would be in the carding room and how many in the spinning room and how many in the weaving room?

Mr. LONG. There would not be very much difference except in the weave room, where we have less, in proportion, because we have automatic machinery.

Mr. NOLAN. We do not know what "less" means.

Mr. LONG. Well, it takes 34 weavers to run 560 looms.

Mr. NOLAN. Can you not give us just the plain figures—how many you have in one room and how many in the other?

Mr. LONG. I would have to guess unless I had the figures actually before me, but in the spinning room we have more, in proportion, and, as I said, in the weave room one weaver can run 20 looms.

Mr. NOLAN. Take 100 workers and give us your best answer as to how they would be divided, without going into details.

Mr. LONG. I would say there are about 30, for instance, in the weave room, or perhaps 40 in the weave room, counting fixers and all. I am figuring on my own mill—200 help.

Mr. NOLAN. Yes; go ahead.

Mr. LONG. In the spinning room there would be about—let me see—I guess there would probably be 60 in the spinning room. Then we have the card room and there would probably be about the same as the weave room there. Then we have what we call the picker department; that is part of the card room and they have half a dozen hands there; and then the cloth room; that would take 8 or 10 hands there; and then we have the outside hands. This is about the way it would go. There are a little more in the spinning room, in proportion, than there are in any other room.

Mr. NOLAN. Take one spinner out and you cut off practically two people—two other people? Is that it?

Mr. LONG. Yes. Take a family which has a spinner in it, and you may also lose a hand in some other part of the mill. That is why I say, in my estimation, for awhile we would have 20 per cent of our machinery stopped until we could get adjusted.

Mr. SMITH. How long would it take to do that?

Mr. LONG. I could not tell.

Mr. SMITH. In your opinion, how long would it take?

Mr. LONG. Well, we would have to build more houses, because we could not get as many hands to the house as we do now.

Mr. SMITH. Take it altogether?

Mr. LONG. I do not know whether we could adjust it at all or not.

Mr. SMITH. Would it require three months, or six months, or nine months, or a year, or how long?

Mr. LONG. I should say it would take at least a year, if we could do it at all.

Mr. SMITH. The bill provides for a year.

Mr. LONG. Well, to build your houses, you could do that of course.

Mr. SMITH. No; but I mean to adjust your industrial affairs and the building of the houses and everything concerning this changed condition. You have one year in which do it. Now, would that be sufficient?

Mr. LONG. If you are going to pass a bill and want to provide a time, you should have two years, for this reason, if you limit it to 14 years. Two years is what we need, if anything. Then we would not have to turn out anybody, and ruin the people there. We would simply have to quit taking those families that have these small children.

Mr. SMITH. Where do you live?

Mr. LONG. Rock Hill, S. C.

Mr. SMITH. What is the age limit in South Carolina?

Mr. LONG. Twelve years old. We have a compulsory education law, but it is optional. The mills have gone on record as favoring a compulsory education law with a 14-year-old limit. We are in favor of a 14-year limit and a compulsory education law, and I will be glad anytime they will put it in.

Mr. VAN DYKE. What is your judgment as to taking those children who can not work full time under this bill, and working them in two shifts, thus giving them a chance to work some and to go to school some?

Mr. LONG. You could not do that unless you gave them each five hours or five and a half hours, whichever it is, and paid each one of them as much as you do for the whole time now.

Mr. NOLAN. Why would you have to pay them as much as you do now?

Mr. LONG. Because they have to be there and they have to make a living.

Mr. NOLAN. They would make more working half a day than they would not working at all.

Mr. LONG. Yes; but if you bring them there and keep them there, you must hold out the inducement of a day's work for them; you must give them a living. The wages in a mill are based on a living.

Mr. NOLAN. You mean they would go and work somewhere else?

Mr. LONG. Yes; that is it. When a man or a child or a grown person works in a mill, they have got to make a living. I have a card man working in my mill, sitting up running 20 looms, making

$2 a day. Now, he can not walk a step, but he is making a good living in the mill. He walks on crutches.

Mr. NOLAN. Do you not think if you would hold out the inducement of giving some work to the children and still giving them an education, that that would be an attraction?

Mr. LONG. We are giving our operatives an education at night now.

Mr. VAN DYKE. How many children between the ages of 14 and 16 are working in your mill, who do not belong to families that have other boys and girls working in the mill?

Mr. LONG. I have not separated them in that way at all. I would not be positive how much that would be. I have it altogether here.

Mr. VAN DYKE. I am asking that for this reason: As I understand this grouping system of family work, it is that they all work there so that they may contribute their mite toward the maintenance of the family; consequently if one of these children between 14 and 16 would work in one of these shifts of five or five and a half hours a day, they would earn enough to maintain themselves, while the rest of the day they would have an opportunity to gain an education. They are not there taking care of themselves individually, but they are working in connection with other members of the family; is not that true?

Mr. LONG. I do not see how it would be possible. If you have anybody there ready to work, they want to work a full day, and you can not work them part of a day, and give them a full day's wages, unless you simply do that for a day now and then, when they want to be off.

Mr. KEATING. How many operatives did you say you have in your mill?

Mr. LONG. Two hundred in one mill, and 175 at the other.

Mr. KEATING. And you have a total of 14 children?

Mr. LONG. No; at one it is 13, and 14 in the other; there are 28 altogether.

Mr. KEATING. Twenty-eight out of how many?

Mr. LONG. Out of 375.

Mr. KEATING. Is that a typical mill for South Carolina?

Mr. LONG. What did you say?

Mr. KEATING. Is that about the proportion of children between 14 and 16 years of age in the average mill in South Carolina?

Mr. LONG. I am not able to say whether that is exact.

A VOICE. The average in South Carolina is 14 per cent.

Mr. LONG. Well, mine is about 7.

Mr. KEATING. So yours is an exceptional mill?

Mr. LONG. It is about 7 per cent. Our commissioner issues a statement showing how many there are for the whole State, but he does not give it for the individual mills.

Mr. KEATING. Have you any children under 14?

Mr. LONG. In the mill?

Mr. KEATING. Yes.

Mr. LONG. I think about one-half of that 28 of mine are under 14.

Mr. KEATING. Your record is one-half of the average for the State.

Mr. LONG. It seems so. I do not know what the average is. I do not employ a child under 16 years of age if I can possibly get around it. I have made that a rule, and I do not want to employ them. We do not make any money out of children under 14 years of age. They do not do as good work. Take a spinner under 14, they do not take any interest in the work or do the work as good. I am perfectly willing and will be glad at any time to take them out under 14 if nobody else will suffer. If I had had the excuse of a compulsory education law I would have been glad to do it for years.

Mr. DENISON. You say you have been in favor of a 14-year limit and have been urging your legislature to make a 14-year age limit?

Mr. LONG. With compulsory education; yes.

Mr. DENISON. Then what is your opposition to this bill?

Mr. LONG. Well, as I stated, a great many people will have to move away from my village. I do not know any place where a woman with children, or even a man who can not work, with children, can go and get anything like he can at the mills, and I think it will stop at least 20 per cent of our machinery when he does go away.

Mr. DENISON. You understand this bill will make it 14 years, do you not?

Mr. LONG. I understand it will make it 8 hours for 14 years. We have been discussing that point just now—what would happen if we had to employ a child for part of the day—and we would find it impossible, in my opinion, to do that. That, in my opinion, amounts to the same thing as the 16-year limit.

Mr. DENISON. You approve of the provision of the bill which provides for a 14-year limit?

Mr. LONG. I am in favor of not working a child under 14 if we can get compulsory education at the same time. Yes; I am in favor of that.

Mr. DENISON. You are looking at the interests of the children themselves, are you not—the families of the operatives?

Mr. LONG. Well, that is my record. I am known in South Carolina. I suppose there is more in the papers of South Carolina about what I am doing for mill children than there is about any man in the State.

Mr. DENISON. Well, if it is at all practicable to employ the children, some of them—those 28 or so in your mill between the ages of 14 and 16, say—if it is at all practicable to employ one shift for five and a half hours a day and then another shift for five and a half hours a day, do you not think it is better to give some employment to twice as many than to give twice as much employment to just half as many?

Mr. LONG. Oh, if you had plenty of them just standing around begging; but in my experience we have been through years, even with our limit in South Carolina, where we have not been able to get enough hands to work the mill. Just at the present time we happen to have plenty, but at times we have had difficulty in keeping our machinery going. We can not tell how long the present surplus will last. Here is another point: Take and raise the limit from 12 to 16. Suppose you have a person with two children between 12 and 16, which is very often the case—children one or two years apart in ages—you will take two out of a family; if you go to 14 you will one out of a family; but if you go to 16 you will take two, and that family will simply have to go.

Mr. KEATING. Are you familiar with the work of the cotton mills in Massachusetts?

Mr. LONG. No.

Mr. KEATING. You do not know, then, that there are mills there operating under exactly the conditions set forth in this bill?

Mr. LONG. I have understood they have a labor law there of that kind, 16 years, but I am not familiar with the situation. I have never been in but two cotton mills in New England.

Mr. KEATING. If it can be shown that the cotton-mill operators, the manufacturers, in New England, have succeeded in operating under this bill, do you not think the cotton-mill managers of the South will be equally successful in operating under it?

Mr. LONG. We have got to provide a village. We are so situated in the South that we have got to provide a village for our people to live in. They have no other place to livce. Most of these mills in New England, as I understand, are situated where there are surrounding cities, and many houses to live in, and they draw their help from those cities and from tenements that are put up in the cities. They probably do not know anything about their families at all. They have not got to look after them as we have. There, if a family can not afford to work in the mill, they can leave that mill and work somewhere else, but in our country, if a family can not work for our mills, they have got to leave the town and go somewhere else. There are a few mills in the South situated as they are in New England. Take Atlanta, for instance; they draw their help from all around the city. They might come to it without very much trouble in the same way as they do in Fall River, but we can not do it in our village, because they have to work in our mill in order to live there. I do not think our situation can be compared with the New England situation, therefore.

Mr. SMITH. Taking your statement that it is impracticable to solve this proposition of working those 28 children between the ages of 14 and 16, eight hours a day—and that has been the general statement here of those that have testified—I want to ask you one or two questions: How many spinning machines does one child operate?

Mr. LONG. Well, a good spinner can run eight sides; that would be four frames.

Mr. SMITH. What is the cost of that machinery that one child operates?

Mr. LONG. It would be in the neighborhood of $4,000.

Mr. SMITH. That is the cost of the machinery that one child operates?

Mr. LONG. Yes.

Mr. SMITH. If you were to change your 28 operatives from 10 to 8 hours, you would want to keep up, you say, with the rest of your mill?

Mr. LONG. I would have to. If I ran that mill with 8-hour operatives, I would have to buy enough additional machinery—I would have to buy 20 per cent more machinery.

Mr. SMITH. You would have to buy 20 per cent more machinery?

Mr. LONG. Yes; if I ran it with 8-hour operatives, and ran the balance with 10-hour operatives, I would have to buy 20 per cent more machinery.

Mr. SMITH. How many machines have you for those 28 operatives altogether?

Mr. LONG. We have something like 92 frames in there, and we would have to build floor space, of course. We would have to add to our buildings, and to build additional cottages.

Mr. SMITH. Taking that percentage, it would mean floor space and machines for six operatives?

Mr. LONG. Well, for instance, I have 23,000 spindles. I would have to have room for about 5,000 more spindles, and to buy that 5,000 more spindles——

Mr. SMITH. How much would those 5,000 spindles cost?

Mr. LONG. Well, they would cost about in the neighborhood of $4 a spindle now, set up ready for running, with supplies and everything. That is about $20,000 for spindles, and the floor space would cost about 80 cents a square foot, and then a cottage—a four-room cottage—will probably supply us with about two hands, and a four-room cottage would cost about $700.

Mr. SMITH. Then the thing can be solved with the expenditure of some money?

Mr. LONG. Oh, yes.

Mr. SMITH. It is not an impossibility?

Mr. LONG. Oh, no; we are not going to close down our mills.

Mr. SMITH. I mean this situation which you speak of as impracticable can be solved on an 8-hour basis, with the expenditure of some money?

Mr. LONG. And in addition to that it would mean 20 per cent additional cost to us for spinning that yarn.

Mr. SMITH. You would not have to build very many cottages for six boys or girls to work on an 8-hour shift, taking 20 per cent as an average?

Mr. LONG. We have 75 there. Taking 20 per cent additional cottages——

Mr. SMITH (interposing). No; you would only have to have cottage space to take care of six operatives. You only have 20 operatives affected, and 20 per cent of that is less than 6.

Mr. LONG. Of course, the machinery and the increased floor space would be the greatest expense.

Mr. SMITH. It is a question that can be overcome with the expenditure of money?

Mr. LONG. Oh, yes; you can, if you spend the money.

Mr. SMITH. It is not impracticable in the way the statement has been made? It can be overcome, even with boys and girls 14 and 16 years of age?

Mr. LONG. Yes; by paying them the same for 8 hours as for 10 hours, and providing additional machinery to keep the mill going.

Mr. VAN DYKE. What effect would a general 8-hour law have in your mill?

Mr. LONG. I am afraid we never would be able to pay another dividend. Of course, nobody knows what anything is going to do, just as you all do not realize what we are up against. I suppose it is mighty hard for you to realize that we people who are here know just what we are talking about. As everybody knows, we are not after anything except what is best for the people who are with us. It will undoubtedly be worse for the people who are with us than for ourselves.

Mr. Van Dyke. I am wondering what effect it would have on the industries down there. Other manufacturers have made the same contention, but they have gotten along with it, somehow.

Mr. Long. Can you tell me of any cotton manufacturers who have voluntarily started an eight-hour law?

Mr. Van Dyke. What effect do you think it would have?

Mr. Long. It would have the same effect it had in Massachusetts for a while—the dividends would be cut down considerably.

Mr. Van Dyke. To be plain, it would not be a paying proposition?

Mr. Long. No.

Mr. London. What would be a reasonable time for the transition from the present condition to a better state which would eliminate child labor in the cotton mills?

Mr. Long. I do not know. As I stated a while ago, if Congress insists on passing this bill, we certainly should have two years in which we should not have to be torn to pieces, and simply have to eliminate employing the younger ones from then on; and that is the only way that I see it could be adjusted without a great deal of loss to us and without working a hardship on the people.

Mr. London. In principle, you are opposed to child labor?

Mr. Long. Of course I am.

Mr. Smith. You realize that this legislative process in Congress is rather slow, and possibly it would take the better part of a year for it to pass, and then, after it was signed, you would have practically another year.

Mr. Long. You understand, we could not commence employing people 14 years old until it was a law. If you do not employ them now between 14 and 16 they will leave you.

Mr. Smith. You say that you yourself and other cotton-mill men in South Carolina are willing to go before the legislature and ask that the age be changed from 12 to 14 years?

Mr. Long. Yes; we have done that. We are willing to start now at 14—right away.

Mr. Smith. So you are working at something along the very same line suggested?

Mr. Long. I am very glad you brought that out. We are down there working this thing out in the only reasonable way, but we are working it out, nevertheless.

Mr. Smith. All right. If Congress proceeds along the same lines, and you are in sympathy with the movement, is it not possible that you might get these changed conditions effected by the time the limit would expire with the passage of this bill?

Mr. Long. In the first place, I think it is a hardship on the people. So far as the mill is concerned, we would have to meet it, but the only way I see that we could do it without causing a great deal of suffering would be to give us at least two years. That will keep a great many people in the country from losing a great deal. If you do not do that, it is going to cause a great deal of suffering.

Mr. Smith. I presume the number of families that would leave the vicinity of your mills would be very few, because, as a matter of fact, you only have 28 people who would be affected?

Mr. LONG. For instance, I have 75 families. There are over 14 of those families affected. You can see there is 20 per cent of my families.

Mr. SMITH. How much would they be affected? One operative?

Mr. LONG. Some one, and some two.

Mr. SMITH. It could not be more than about two in each family?

Mr. LONG. I figure that 20 per cent of my machinery would be affected by this law if it should go into effect now, and I would have to take a great deal of time to adjust myself to it. I do not know when the people would get adjusted to it.

Mr. SMITH. How many of these people that would be affected would have adult members of their families working in their mills?

Mr. LONG. I could not tell you, but most of those children have not got parents working in the mill; very few of them.

Mr. KEATING. You have had a good deal of experience in the matter of child-labor legislation. Were you in the State of South Caroline when the limit of 12 years was fixed?

Mr. LONG. Yes.

Mr. KEATING. Did the cotton-mill owners oppose that bill?

Mr. LONG. I was not a manager of a mill at that time. I was living in the State, but not managing a mill.

Mr. KEATING. Were you taking an interest in the matter?

Mr. LONG. I did not have anything to do with it one way or the other at that time.

Mr. KEATING. They have proposed an age limit as low as 14 years before your legislature.

Mr. LONG. I suppose they have, although I could not give you any real information along that line. I have been manager of a mill myself for the last eight years.

Mr. KEATING. I wonder if you were familiar with the arguments which were advanced against the fixing of 14 years as the age limit?

Mr. LONG. The only arguments I have heard are that the compulsory education should go with it; that there was nothing to be gained by it unless they were required to go to school.

Mr. LONDON. What elements have succeeded in defeating the compulsory education law in your State?

Mr. LONG. The farming interests have defeated the compulsory education measure. Many of the legislators were afraid to advocate it because they knew the farmers opposed it.

Mr. LONDON. I understand you have in your State 50 per cent illiterates. Are they among the foreigners?

Mr. LONG. Of course, the most of them are among the country people. There are less in proportion in the mills than there are in the country. The school conditions at the mills now are a hundred per cent better than they are in the country. The country is the place that opposes the compulsory education measure, because they want to work those children on the farms. Mr. Swift can tell you that. I have met him in Columbia two or three times, and he knows that is what keeps them down.

The CHAIRMAN. Is there anything else you care to present to the committee, Mr. Long?

Mr. LONG. I have nothing further myself. I will be glad to answer any questions.

The CHAIRMAN. Are you through with Mr. Long, gentlemen?

(No response.)

STATEMENT OF MR. BENJAMIN B. GOSSETT.

Mr. GOSSETT. I am 31 years of age and from Anderson, S. C., and am president and treasurer of the Riverside Manufacturing Co., the Toxaway Mills; also, assistant treasurer and vice president of the Brogon Mills of that city. These mills represent an investment of about two and a half million dollars, and employ about 1,000 operatives. Out of this number, about 15 per cent are under 16 years of age, and about 4 per cent are under 14, but over 12. I do not know that it is necessary for me to try to go into some of the details that have been covered here to-day, because my views are pretty much the same as some of the gentlemen who have preceded me, notably Mr. Fitzgerald, from Danville.

I will state to the committee that in all these mills we are engaged in so-called welfare work, as they are doing at Danville, except in a more modest way, because we are a good deal smaller and have not, perhaps, been as successful.

The CHAIRMAN. You are not as small as those at Danville?

Mr. GOSSETT. Yes, sir; we are just about one-sixth the size. At these mills the welfare work consists of libraries at each mill, and we have experienced workers in charge of the welfare work, and, incidentally, in charge of the library. The work consists of cooking classes and sewing classes and things of that nature. We provide playgrounds for our children; we have night schools, which are free, and, incidentally, our school system is a part of the city school system of Anderson, which is, perhaps, second to none in any town in South Carolina. I am here as a representative of these mills, and also as representing the Cotton Manufacturers' Association of South Carolina. As you gentlemen are aware, South Carolina is the second cotton-manufacturing State in the Union, and this association covers, I would say, 97 per cent of the mills within the State. The association members, and I, individually, oppose this bill for two reasons, principally. One is that it would work a very great hardship on certain of our operatives; or if we took steps to try to minimize this hardship at all, possibly it would cause us to expend a great deal of money, and we are very doubtful if on that basis we could then put the plan into practical operation. I would like to read into the record, showing the attitude of the manufacturers of South Carolina on child labor, the following resolution that was adopted on January 22, 1909, and that, as I understand, is the view of the association to-day with respect to child-labor legislation, particularly in South Carolina.

The CHAIRMAN. Will you pause long enough to state what was the occasion of that resolution?

Mr. GOSSETT. It was at the annual meeting of the association.

The CHAIRMAN. What was the practical question confronting the association at the time of the passage of that resolution?

Mr. GOSSETT. The resolution was adopted just prior to a meeting of the State legislature, because it was known that this matter would come up at that time.

The CHAIRMAN. What matter?

Mr. GOSSETT. The matter of raising the age limit to 14 years.

The CHAIRMAN. In that State?

Mr. GOSSETT. In that State; yes. The resolution is as follows:

> That the association renews its recommendation to the legislature that there be passed a general compulsory law requiring the compulsory education of children under 14 years of age.
>
> Second, that provided there be passed such compulsory-education law, this association feels that there is no objection to advancing, under proper limitations and restrictions, the age limit of children working in textile mills and other industries to an age to comply with the general compulsory-education law as passed.
>
> Third, that this association also renew its strong and urgent recommendation to the legislature that a law be passed requiring registration of births and marriage licenses.

Now, gentlemen, with respect to that third paragraph, we have been very deficient in our State in this particular, and the enforcement of this law is largely dependent upon the matter of a record of the age of children. Unhappily, it is true that there are a great many heads of families in cotton mills, who, when legislation like that under discussion is proposed, are inclined to misstate the age of their children, and it is our experience there that there are many families who, needing the work of their children, where they are prevented from working those children under the law they would be disposed—I suppose the best word to say is "perjure" themselves—whereas, in other matters they are perfectly honest people whose integrity could not be questioned.

With your consent, Mr. Chairman, I would also like to read into the record the following extract from the report of our commissioner of labor, which has just been prepared for the general assembly, which meets, I believe, to-morrow:

> In regard to the labor situation, as shown by the census, there are now more people employed in the textiles than at any time in the past four years, the total number being 50,597, representing an employed population of 126,746.

I am reading this because it covers a great many questions you have been asking.

> I am happy to note that 1,171 of this increase is represented by males of over 16 years of age, while 593 are women and girls over 16 years of age. In the matter of child labor, there are 121 less males under 16 years old employed this year than last year, and only 37 more girls under 16 than were employed in 1914. This makes a total working force under 16 in the textiles of only 7,328, which is considerably less than in any year in the last four years.
>
> The figures show that only 3,518 of these children are between the ages of 12 and 14, and the bulk of this number is represented by children very nearly 14 years of age. As I stated last year, the tendency in all the textile plants is away from the employment of the child between 12 and 14, and, in my opinion, these 3,500 children between 12 and 14, out of a total of 50,597 employees, may be easily eliminated without damage to the employee or the employer, and a flat 14-year child-labor provision adopted.

Mr. SUMNERS. You used the word "flat."

Mr. GOSSETT. I want to explain that our child-labor law now is 14, except with widowed mothers, and so on; but for a child under 14 and over 12 to get employment they must get a certificate from the State superintendent of labor and keep it on file. We also have two State factory inspectors who visit our plants several times a year—some of the plants perhaps more than others.

Mr. DENISON. Are you mistaken about your age limit in that State?

Mr. GOSSETT. No, sir; 14 is the age limit.

Mr. **Denison**. I am told here, by two parties sitting here, that it is straight 12 now, and somebody is mistaken. I thought I would call your attention to it while you are testifying, for fear you might want to correct it.

Mr. **Sherrard**. Those certificates have to be issued by the commissioner of labor between 12 and 14.

Mr. **Gossett**. I have just said they are not allowed to work under 14 to-day except by permit, which is in special cases.

Mr. **Denison**. They are not allowed to work under 14?

Mr. **Gossett**. Except by permit from the commissioner of labor. I thought I made that clear.

Mr. **Long**. Anybody over 12, with a certificate from a magistrate, can get work.

Mr. **Gossett**. Yes. What the commissioner proposes now is that at this session of the legislature they pass a law to make the age limit 14 flat, with no exceptions, and I do not think there will be any opposition to that by the cotton manufacturers of our State; that is, of any moment.

Mr. **Denison**. What does this certificate have to show, that is furnished by a child under 14 and over 12?

Mr. **Gossett**. If a mother or a parent has a child under 14, she has to go before a magistrate and make an affidavit that that child's work is absolutely necessary.

Mr. **Sherrard**. No; that was done away with two years ago. Any child over 12 can get that certificate. It is something like a life insurance policy; you have to give the date of birth of the child, where they were born, etc., and other information up to the time they apply for that permit, and that record is kept in the State department at Columbia.

The **Chairman**. There is no use pursuing that any further. The clerk of the committee will place in the record the statute of South Carolina.

HOURS OF LABOR—EMPLOYMENT OF WOMEN AND CHILDREN.

Sec. 421. Ten hours a day, or sixty hours a week: *Provided, however*, That the hours of a single day shall not exceed eleven hours, except for the purposes of making up lost time as hereinafter provided, shall constitute the hours for working all operatives and employees in cotton and woolen manufacturing establishments engaged in the manufacture of yarns, cloth, hosiery, and other products for merchandise, except mechanics, engineers, firemen, watchmen, teamsters, yard employees, and clerical force. All contracts for longer hours of work other than herein provided in said manufacturing establishments shall be, and the same are hereby, declared null and void; and any person entering into or enforcing such contracts shall be deemed guilty of a misdemeanor in each and every instance, and, on conviction in a court of competent jurisdiction, shall be fined a sum of money not less than $25 nor more than $100, or imprisonment not exceeding thirty days: *Provided*, That nothing herein contained shall be construed as forbidding or preventing any such manufacturing company from making up lost time to the extent of sixty hours per annum, where such lost time has been caused by accident or other unavoidable cause.

Sec. 422. No child under the age of twelve years shall be employed in any factory, mine, or textile establishment of this State.

Sec. 423. No child under the age of sixteen years shall be permitted to work between the hours of eight o'clock p. m. and six o'clock in the morning in any factory, mine or textile manufactory of this State: *Provided*, That children under the age of sixteen whose employment is permissible under the provisions of this chapter, may be permitted to work after the hours of 8 p. m. in order to make up lost time which has occurred from some temporary shutdown of the mill, on account of accident or breakdown in the machinery, which has caused loss of time: *Provided, however*, That under no circumstances shall a child below the age of sixteen work later than the hour of 9 p .m.

SEC. 424. Any owner, superintendent, manager, or overseer of any factory, mine, or textile manufacturing establishment, or any other person (in charge) thereof or connected therewith, who shall knowingly employ any child contrary to the provisions of this chapter shall be guilty of a misdemeanor, and for every such offense shall, upon conviction thereof, be fined not less than ten dollars nor more than fifty dollars, or be imprisoned not longer than thirty days, at the discretion of the court.

SEC. 425. Any parent, guardian, or other person having under his or her control any child, who consents, suffers, or permits the employment of his or her child or ward under the ages above provided, or who knowingly or willfully misrepresents the age of such child or ward to any of the persons named in section 424 of this chapter in order to obtain employment for such child or ward, shall be deemed guilty of a misdemeanor and for every such offense shall, upon conviction thereof, be fined not less than ten dollars nor more than fifty dollars or be imprisoned not longer than thirty days, in the discretion of the court.

SEC. 426. In the employment of any child under the age of fourteen years in any factory, mine, or textile manufacturing establishment, the owner or superintendent of such factory, mine, or textile manufacturing establishment shall require of the parent, guardian, or person standing in loco parentis of such child a sworn statement, made in duplicate, in which shall be recorded the name, birthplace, age, and place of residence of every such child under fourteen years of age, the original of which statement shall be produced for inspection on the demand of (the) commissioner of agriculture, commerce, and industries, or his agents or inspectors, and the duplicate shall be forwarded to the commissioner at his office at Columbia; the commissioner shall thereupon issue a permit for employment. The commissioner shall prescribe and furnish forms under registered numbers for these statements and duplicates, and shall prescribe regulations for the keeping of proper records of the children employed in the State under the laws of the State; and any person knowingly furnishing a false statement of the age of such child or children shall be guilty of a misdemeanor and for every such offense shall, upon conviction, be fined not less than ten dollars nor more than fifty dollars or be imprisoned not longer than thirty days, in the discretion of the court. The commissioner shall likewise prescribe proper forms and regulations for the employment of children provided for in any other act, making such forms and regulations compatible with those provided for in this section.

Mr. GOSSETT. I have no doubt but what this session of the legislature will pass a law making the age limit 14 years flat. I stated to you at the outset the objection we have to the passage of this so-called—I believe it is called the Keating-Owen bill. With respect to the point made by one of the gentlemen that if it was practicable to work these children two shifts of five hours each, or five and one-half hours, as it would be—I wish to ask the gentleman what are they going to do the other five and one-half hours?

Mr. NOLAN. Study for the night school and play out in the sunshine and do lots of things.

Mr. GOSSETT. Is it desired for them to go to school the other five and one-half hours?

Mr. NOLAN. If it could be arranged; yes.

Mr. VAN DYKE. It gives them opportunity to do so.

Mr. NOLAN. I used to study at home when they did not have any school.

Mr. KEATING. Mr. Gossett, I would say that this problem of how to regulate industry under an eight-hour law is not a new one. I do not know that the regulations which have been applied to other industries should be applied to your industry, because I am not as familiar with your industry as with other industries, but, as I attempted to state a moment ago, this same question was raised when legislation affecting the hours of labor for women in department stores and children in department stores was first brought before the legislatures of this country, and the department-store managers, quite as conscientious as the cotton-mill managers, came before the committees of the legislatures, assuring them that it would be impossible to conduct their business on an eight-hour basis unless they dismissed the women who were employed in the store and substituted men therefor. That same contention was urged in my own State, and in a great many States, including my own, we adopted that legislation, and those same department-store managers instantly so regulated their business that they went to an eight-hour basis and did not dismiss any of their employees, either minors or women.

The suggestion has been made that possibly in the cotton-mill industry you could make the same regulation concerning the employment of children between 14 and 16 years of age, and I have asked various managers if they have given thought to that phase of the subject as to whether you could not so arrange it that girls and boys between 14 and 16 might continue to secure employment in your mills. The thought I had in mind was that they would work eight hours a day, and not longer than that, and that they would not be employed at night, because that is a provision of the bill. The bill does not seek to prohibit the employment of children between the ages of 14 and 16; it merely seeks to limit their hours and to prohibit working them at night. I take it, however, that you are not in a position to pass on that question which I propounded to others, but that was a thought that I had in mind—that you could arrange it on an eight-hour basis.

Mr. GOSSETT. I have thought of that, and it could be done. I would not say it is impossible, but it is certainly not practicable to do it.

Mr. KEATING. Now, as to this resolution which was adopted by the South Carolina cotton-mill interests, when that resolution was adopted which coupled the issue of compulsory education with an age limit for child labor it was well known to the gentlemen who were adopting it that if they coupled compulsory education with child labor, then, as one of the witnesses has suggested, the entire farming element would oppose the entire bill. Is that not true?

Mr. GOSSETT. No, sir. I will simply say that this resolution was adopted in perfectly good faith.

Mr. KEATING. But that was well known to the gentlemen present, including yourself, was it not?

Mr. GOSSETT. No, sir; I would not say that.

Mr. KEATING. I did not say that you had said it, but another witness on the stand, Mr. Long, said it.

Mr. LONG. Allow me to say right there that I have been to Columbia myself and stated that I was perfectly in favor of it, and we have worked for it recently. We have done it, and stated it, and so stated to you, and have gone before the committees at Columbia and said we were in favor of it and anxious for it. The legislators voted against it, I understood, because they were obligated to do it, because the people at home did not want it. That is what I have learned in the last two or three years.

Mr. Keating. When the cotton-mill manufacturers adopted that resolution they knew of that situation in the legislature, did they not?

Mr. Gossett. I do not know how to answer, except to say that it was adopted in perfectly good faith. The proposition of raising the age limit from 14 to 16 years, without compulsory education is a serious matter. The matter of discipline is a serious problem with a boy at that period of life. If he can not work and can not go to school—and his parents will not make him—what is he going to do? We do not have the police facilities as you do in the city limits—most of the mills are out of the city limits—and the question of discipline of those boys during the daytime would be a very serious one.

Mr. Keating. I appreciate that, but what we are trying to get at is this: The reason why these gentlemen are in opposition to this measure. Is that opposition based, in your judgment, upon the welfare of the child, or upon the financial interests of the men who are representing the cotton manufacturers?

Mr. Gossett. I would certainly say, first of all, for the welfare of certain families down there, it would work a great hardship on them.

Mr. Keating. If you combined the compulsory education with child-labor legislation, would you not inflict as much hardship on the family if you combined child labor with compulsory education?

Mr. Gossett. Our commissioner of labor said, " Up to 14 years."

Mr. Keating. Would you favor a flat 14-year bill, exempting up to 14 years?

Mr. Gossett. Yes; I would favor a flat 14-year bill. There are comparatively few under 14, whereas there are a great many between 14 and 16.

Mr. Smith. Did your company operatives sign a petition against this measure?

Mr. Gossett. I do not know, sir. I have heard, but I do not know. I know they are opposed to it.

Mr. Smith. Did your company have anything to do with circulating that petition?

Mr. Gossett. No, sir; absolutely not. We have consistently refused to have anything to do with circulating any petitions.

Mr. Van Dyke. How many children have you working in your factories between 12 and 16 years of age?

Mr. Gossett. Fifteen per cent under 16 and possibly 4 per cent under 14.

Mr. Van Dyke. How many of those children attend school at the present time, either day or night school?

Mr. Gossett. I could not answer that question. A great many of them attend night school, but I have not the exact statistics on that. We have the facilities there; they have night schools and it costs them nothing at all.

Mr. Van Dyke. The facilities do not amount to much unless they make use of them.

Mr. Gossett. Of course not, but that is all we can do.

The Chairman. Gentlemen, is there anything further from Mr. Gossett?

(No response.)

(Whereupon, upon motion of Mr. Smith, the committee adjourned at 5.45 o'clock p. m., to meet again Tuesday, January 11, 1916, at 10 o'clock a. m.)

House of Representatives,
Committee on Labor,
Tuesday, January 11, 1916.

The committee met at 10 o'clock a. m., Hon. David J. Lewis (chairman) presiding.

The Chairman. Gov. Kitchin, have you any other witnesses you desire to have the committee hear?

Mr. Kitchin. I would like the committee to hear first this morning from Dr. Long.

STATEMENT OF DR. T. W. M. LONG, OF ROANOKE RAPIDS, N. C.

The Chairman. Dr. Long, you may proceed.

Dr. Long. Mr. Chairman, I suppose the first thing for me to take up in connection with this subject is the matter of health.

I have been at Roanoke Rapids connected with the cotton mills for five years. I wish to state first, that at all times the cotton mills have aided myself and the other members of my profession in bettering the sanitary conditions in the cotton mills and among the operatives. We have never gone to them for help, for money to aid us in carrying out sanitary measures in the mills or in the mill town that we have not been given the amount of money we asked for. That is notably true in the matter of the eradication of malaria.

Several years ago, with the assistance of the United States Public Health Service, we had a malarial survey made there, and we found that 49.8 per cent of the population were infected with malaria. We asked the mills for $3,500 to start that work. They gave us that amount.

We did about 11 miles of ditching in order to drain out the swamps, and break up the breeding places of the mosquitoes. This work was done, and a system put into vogue somewhat similar to the one in existence in the Panama Canal district, and the result has been that during the first year after that system was put in, the malarial infection was reduced to 36 per cent, and this year it has been reduced to 19.3 per cent. That is on account of the fact that a person who is already infected with the malarial germ requires several years to rid his system of it. But we have been able to eradicate the percentage of cases I have indicated. We hope that within three more years we will reduce the number of cases to less than 5 per cent. In a malarial country that amount or that number of cases is practically nothing.

We could not have done that work without the aid of the mill managements, as there are no other funds at all; that is, no county or municipal funds that may be used for that purpose.

Another thing I want to speak about in connection with our work there is the matter of the eradication of typhoid fever. In that case the mill companies, for the same reason, the lack of funds in the county and municipal treasuries, have contributed the amount of money asked for, for the purpose of putting in such a system as the State board of health required, and the result has been that we have not had a case of typhoid fever originating in this community in two years.

The next thing I want to refer to is the hookworm. There we have carried out the same line of work, and while I have no absolute figures in regard to the hookworm, I know from my experience in my own practice and from conversations with other physicians in that neighborhood that the cases of hookworm have been brought down to a minimum.

The next thing I want to refer to is in connection with the cases of tuberculosis. I do not suppose that in our mill population, which includes the mill operators and their families, those who do not work in the mills, a total population of close to 5,000 people, that there are over 50 cases of tuberculosis in the entire population. I think that would compare favorably with any community of 5,000 people in the United States.

We do not permit any employee to work in the mills who has tuberculosis. They are taken care of. If the families of the employees who have tuberculosis are not able to take care of them the mill company will do that.

I have in mind a family which is entirely dependent at the present time. The father is dead, and the mother and four children are living. One of the children is 13 years old and another one is about 14 years old, and he is the only one old enough to work. He is working in the cotton mill, but he can not make a sufficient amount of money to take care of the family, and the mill company is taking care of that family and does not charge them any rent for the house in which they live and supplies such necessary funds as are needed for their maintenance.

I want to say to this committee that my life is given up entirely to the work in the cotton mills, and my entire time and all my practice is there, and I know these people intimately.

I know what their sentiments are with regard to child labor. Personally, I am opposed to it, and every other good American citizen is, I believe. Children whose families can support them do not work in the mills. They send them to school until they have finished their course; that is, those families who can afford to do that.

But there are innumerable instances where it is absolutely necessary for the children to work in the mills in order to supply the funds for the purpose of taking care of the rest of the family, those who are not big enough to work.

I know, in regard to the sentiments of the operatives, that all of them to a man in the locality where I live believe that children, say, from 13 to 16 years of age, ought not to be taken from the mills; if they were taken from the mills it would work a hardship on a great many individuals, and I know these people are opposed to it.

These cotton-mill operatives of the South, as has been stated here, do not like to be coerced; they are not going to be coerced. They are less likely to be coerced than any people under the sun. In regard to the petitions which were gotten up by the mill operatives I want to state, from my own personal knowledge, that the mill owners themselves, the bosses, and the general managers had nothing to do with the getting up of those petitions which came here from Roanoke Rapids. I know that from conversations with the operatives. They talk to me openly and tell me things that they will not tell their bosses.

One thing I have omitted to state, that is in connection with the matter of ventilation and the heating conditions under which the children and the grown people work. It is our duty to inspect the mills and see that they are kept in the very best sanitary condition, and that the ventilation is in the best possible condition. I know the mills down there, and the ones I am familiar with are absolutely sanitary in every way. The ventilation and light is good, and in my opinion, it is the least injurious of any labor that children and grown people do in our section of the country.

Mr. KITCHIN. May I direct the witness's attention to one point?

The CHAIRMAN. Yes.

Mr. KITCHEN. Dr. Long, at the hearing held during the last session of Congress on a similar bill, it was stated that the working girls in the cotton mills had been affected injuriously, so far as their child-bearing capacity afterwards was concerned, by their work in the mill, and that those who had worked in the mills, and who had afterwards borne children, lost the greater proportion of their children, or the children died in child-birth. I want you to state to this committee your experience in regard to that matter, and what you know from your conversations with other physicians in regard to that feature of the cotton-mill work.

I believe I have stated that matter correctly.

Mr. MCKELWAY. With this correction, that those figures were taken from mills in Fall River, Mass.

Mr. KITCHIN. I believe they were.

Mr. MCKELWAY. Unless the witness is familiar with the conditions there, I do not know whether he can speak authoritatively in regard to that matter.

Mr. KITCHIN. As I recollect, it was stated that that statement was not accurate.

Dr. LONG. Gentlemen, I wish there was less of it. I have more of that to annoy me than anything in my practice. Last year I delivered in the Roanoke Rapids Hospital seven or eight children. I suppose there are about 250 families there, and I delivered seven or eight healthy children. Every mother lived and all the children lived to get out of the puerperal state. I do not recall any child who died under several months old.

I want to mention one matter I forgot in regard to the matter of district nurses. Before the child is born, during labor and afterwards, it is our custom to have the district nurse watch the mother, and she reports to the doctor anything which is abnormal or wrong, or anything that needs looking after where it is possible to correct it. During the period of labor the nurse is always present, and if there is an abnormal state of affairs the patient is carried to the hospital and the child is delivered there. After the child is born the patient is under constant supervision of the nurse and the physician for many days until the mother is able to get out of bed and resume her duties. These nurses make daily visits, and any child who is not doing well is reported at once to the physician in charge. There is no race suicide in our part of the country.

Mr. KITCHIN. State to the committee who pays the expenses of the nurses and the doctors.

Dr. Long. The nurses and the doctors are paid by the mills, entirely. The operatives are not charged a cent for that service. There was something said here yesterday in regard to our hospital conditions there.

Mr. Kitchin. Can you tell or approximate the number of those wives who had children last year who had formerly, as girls, worked in the mills?

Dr. Long. I can not swear to the figures; but I suppose from 60 to 75 per cent have been cotton-mill people for years. That has absolutely no bearing on our mill women. I know that. They are all healthy people.

Three years ago, the operatives there, after talking the matter over with the doctors, decided they wanted a hospital; and in order to bring that about they made this proposition among themselves, that they would devote 5 cents a week toward the maintenance of the institution, that is, those who were getting $1 a day and upward. They voted on that, and not a single one dissented, that I ever heard of. They voted on it among themselves, and the mills had absolutely nothing to do with it.

For that amount of 5 cents a week each person, or his dependents, has hospital attention, and there is no charge against them for it. If a man had a wife and six children, and any one of those members of the family not working in the mill became sick and needed hospital attention, or needed medicine, they could get that at the hospital without any extra cost whatever.

Of course, there is a deficit; and that deficit is made up, to a certain extent, by contributions from the mills.

Last year we did in this institution, I think, 149 major surgical operations, with practically all classes of cases that come along in a surgical hospital.

I do not know what else you desire me to talk about in the professional line.

The Chairman. I think there was a rule agreed to yesterday that after your general statement had been made, the members of the committee who so desired could ask questions.

Dr. Long. I do not know that there is anything further that it is necessary for me to state on the subject, from the professional standpoint.

Mr. Denison. Doctor, how many cases of injuries to employees did you treat during the past year in your hospital?

Dr. Long. There was nothing there, other than just sometimes a lacerated finger. I did not have to amputate a single finger during the last year. In the five years I have been there I have had only one amputation, and that man admitted himself that he put his hand in a revolving piece of machinery; and it was torn somewhat; and it was necessary to amputate it.

Mr. Denison. Have you had any injuries to boys or girls under 16 years of age that happened in the mills?

Dr. Long. I can recall only two in the last 12 months, and those were cases of mashed fingers, and no amputation was necessary at all. I have not had to attend anyone who suffered from the result of an accident of any serious nature in the five years I have been there.

Mr. DENISON. How many people are working in the mills where you have medical supervision?

Dr. LONG. About 1,500.

Mr. DENISON. Does the work which the girls who work in those mills do require them to stand on their feet?

Dr. LONG. You mean the girls under 16 years of age?

Mr. DENISON. Yes.

Dr. LONG. They do not work in the weaving department. They are mostly spinners, and they sit down a good part of the time. I have been in there frequently, and you would see the same thing if you would go in there, the majority of the girls will be sitting down a good part of the time. I do not suppose they are actually engaged in working over 75 per cent of the time they are in the mills; that is, they are not really at work more than that time.

Mr. DENISON. The injuries that you have treated, were they injuries to boys or to girls?

Dr. LONG. No; most of them—the patient on whom I had to perform an amputation was a man over 40 years of age. The girls sometimes get their fingers mashed, but I do not suppose there have been a dozen cases of that kind during the five years I have been connected with the hospital. There is no permanent injury. I have never amputated even one joint of a finger. I think that work is as safe as anything they can do, any labor at which they can be employed.

Mr. DENISON. You work for that company as a salaried surgeon?

Dr. LONG. Yes; they pay me a salary. The operatives pay me nothing.

Mr. KEATING. Doctor, you are the superintendent of the hospital there, are you?

Dr. LONG. Yes.

Mr. KEATING. How is the hospital controlled?

Dr. LONG. It has a charter under the State as a nonstock corporation. It is managed by a board of directors, consisting of the doctors in the hospital—there are four of them—the general manager of each mill, the mayor of the town, and the county commissioner from that township. They are named in the charter.

Mr. KEATING. What is the total expense of the hospital for a year?

Dr. LONG. Last year the total expense was a little over $5,200.

Mr. KEATING. How much of that was contributed by the men employed in the various manufacturing establishments in that town?

Dr. LONG. About $2,600; 50 per cent.

Mr. KITCHIN. Doctor, do you know how many of the operatives receive $1 a day?

Dr. LONG. I think they would run about $22 a week. About one-fifth of them contribute nothing toward the maintenance of this hospital. Anyone who gets under $1 a day does not pay anything toward the maintenance of the hospital, and yet they have the same privileges as those who do pay.

Answering Mr. Keating's question, the men employed in the various manufacturing establishments in that town pay about $225 a month toward the maintenance of the hospital.

Mr. KEATING. That would be about one-half of the total cost?

Dr. LONG. Yes; about 50 per cent.

Mr. KEATING. The men employed in the manufacturing establishments contribute 50 per cent of the total cost of maintenance, but they are not represented on the board of directors?

Dr. LONG. I should say they were represented. I represent them.

Mr. KEATING. In what way are they represented in any direct fashion on the board of directors which controls that hospital, toward the maintenace of which they contribute 50 per cent of the funds?

Dr. LONG. No; they are not, directly; but there is no objection to their being represented.

Mr. KEATING. It is not a question of any objection; but are they represented on this board?

Dr. LONG. No, sir.

Mr. KEATING. And yet they contribute 50 per cent toward the cost of maintenance of this hospital?

Dr. LONG. Yes.

Mr. KEATING. Have the employees any voice in selecting their physician?

Dr. LONG. I do not know that they have.

Mr. KEATING. Your employment is entirely dependent upon the board of directors, is it not?

Dr. LONG. Yes.

Mr. KEATING. And the board of directors is controlled by the mill management?

Dr. LONG. Of this hospital?

Mr. KEATING. Yes.

Dr. LONG. Yes.

Mr. KEATING. At what age, Dr. Long, do you believe a boy should be permitted to work in a cotton mill in North Carolina?

Dr. LONG. I do not think a child ought to work in a cotton mill until the child is over 16 or 17 years of age, if there is any way to avoid it.

Mr. KEATING. Why do you think a boy should not be permitted to work in a cotton mill before he is 16 or 17 years of age?

Dr. LONG. For the simple reason that they could not go to school; their education would be neglected.

Mr. KEATING. Do you believe that his employment in the mill would have any effect on him, physically.

Dr. LONG. I do not. I do not think it would have any deleterious effect on the boy.

Mr. KEATING. Do you believe it would have any deleterious effect on a boy at 15 years of age?

Dr. LONG. I do not.

Mr. KEATING. Do you believe it would have a deleterious effect on a boy 14 years of age?

Dr. LONG. I do not. I do not think it would have a bad effect on any child over 12 years of age.

Mr. KEATING. Any boy over 12 years of age might be employed in a cotton mill, in your judgment, without any deleterious effect on his physical condition?

Dr. LONG. I honestly believe that.

Mr. KEATING. Now, concerning girls, do you believe any girl over 12 years of age may be employed in a cotton mill without any deleterious effect on her health?

Dr. LONG. I do.

Mr. KEATING. How long do you believe it is safe, how many hours a day do you believe it is safe to employ a girl 12 years of age in a cotton mill?

Dr. LONG. I do not think they should work over 10 or 12 hours.

Mr. KEATING. A girl, in your judgment, 12 years of age could, with safety, be worked 12 hours a day in a cotton mill?

Dr. LONG. Yes.

Mr. KEATING. You mean continuously, I presume?

Dr. LONG. They are not worked continuously, and that is the reason I say that. These children who go into the mill at 12 years do not work, certainly, not more than 75 per cent of the time they are there; possibly not half of the time. It is very light work.

Mr. KEATING. You do not mean they are not on duty?

Dr. LONG. No; they are on duty, of course, but they are not laboring all the time. That is what I am trying to tell you.

Mr. KEATING. You mean they are not actually lifting something; not actually engaged in the performance of work; but they are there?

Dr. LONG. Yes, they are there.

Mr. KEATING. There are very few men or women who work anywhere every minute of the time they are on duty; is that not true?

Dr. LONG. Under 16 years of age?

Mr. KEATING. In any occupation they are not actually at work every second of the time they are on duty?

Dr. LONG. Most laborers I know about are working all the time they are on duty. Take, for instance, the weavers in the cotton mills, or the men in the paper mills; they work continuously at hard labor.

Mr. KEATING. They have not even a minute to rest during the entire period they are on duty?

Dr. LONG. They have a minute's rest, I suppose, but they are continuously doing something, whereas in the spinning room of a cotton mill they are not working half the time.

Mr. KEATING. What are they doing?

Dr. LONG. They are not doing anything. If the thread breaks the machine stops until a man comes along and takes it between his fingers and fixes it and then starts the machine going again.

Mr. KEATING. They are there to watch the machine?

Dr. LONG. Yes.

Mr. KEATING. And they are on duty, and in your judgment may be kept on duty, at the age of 12 years, for 12 hours a day without injuring their health?

Dr. LONG. Doing that class of work.

Mr. KEATING. That is your judgment as a physician?

Dr. LONG. Yes; and I will tell you why I make that statement. In the families of the people in Roanoke Rapids who do not work in the mills their children are not a bit better developed physically than those who do work in the mills 10 or 12 hours a day.

Mr. KEATING. Do you consider the children in the families you refer to to be perfect physically?

Dr. LONG. As near as any race under the sun can be; yes, sir.

Mr. KEATING. At what hour in the morning do these girls of 12 years of age go to work?

Dr. LONG. They go down there about 7 o'clock; I think between 7 and 7.30 o'clock; and they got back about—the mill whistle blows at 6.30 in the evening.

Mr. KEATING. They quit work at 6.30 o'clock in the evening?

Dr. LONG. Yes. The age limit down there I know is 13 years and is watched very closely, because the superintendent frequently asks me about the children who come in there.

Mr. KEATING. But it is your opinion if they were working them at 12 years of age, the same conditions would be all right, as far as the hours of labor are concerned?

Dr. LONG. Yes.

Mr. KEATING. It is your judgment that a girl of 12 years of age may be worked with safety in a cotton mill 12 hours a day?

Dr. LONG. Yes. I think it is equally as safe as working on farms the way most of the children who now work in the mills had to work on the farm. The children out on the farms in that region, in the farming season get up at daylight and work until dark. I was raised on a farm and had to do that myself, and I know how hard the work is.

Mr. KEATING. Do you know what proportion of the net profits of the corporation you represent is expended for welfare work?

Dr. LONG. The net proportion of the profits?

Mr. KEATING. No; what proportion of the net profits.

Dr. LONG. I can tell you what the mill I work for approximately spends each year. They spent this year over $5,000 in welfare work.

Mr. KEATING. What is the capital of your mill?

Dr. LONG. The capital is $408,000, I think.

Mr. KEATING. Do you know what the net profits of that mill were during the last year?

Dr. LONG. No; I do not. I can not answer that question. I am not a director of the mill corporation, and have no connection with the mill other than that of a physician in the hospital.

Mr. KITCHIN. Doctor, you named the directors of the hospital, and you have been asked if the laboring people had any representative on the board of directors. You stated that the mayor of the town in which these operatives live, and a member of the board of county commissioners are on the board of directors of the hospital. What people do the mayor and the county commissioners represent?

Dr. LONG. They are elected by those people. The mayor is elected by the people in the town.

Mr. ALMON. What percentage of the population of that town are mill operatives?

Dr. LONG. Ninety per cent of them.

Mr. SMITH. What is the difference between the carding room and the weaving room?

Dr. LONG. I do not know much about that end of the business. The carding is one of the primary stages in the manufacture of cotton. I do not know the technical difference.

Mr. SMITH. You do not know whether there is any difference in the labor performed in the two rooms?

Dr. LONG. The weaving room is where they make the cloth. The carding room is where they prepare the cotton to be made into thread. It is the first stage in the manufacture of the cotton.

Mr. SMITH. You do not know whether the work is harder in one than in the other?

Dr. Long. It is harder in the weaving room, and only grown people do that work in that room. I have never seen a child at work in the weaving room.

Mr. Nolan. You have been in the spinning room where most of the girls are employed?

Dr. Long. Oh, yes; frequently.

Mr. Nolan. Is that the room where all the spindles are in operation and where, on that account, there is a great deal of noise?

Dr. Long. Yes.

Mr. Nolan. What effect do you think that would have on a girl working 11 hours a day, from the age of 13 years up to about 18 or 19 years of age; what effect do you think that would have on her nervous system?

Dr. Long. In my opinion it never has had any effect. I have never had a case of insanity or nervous prostration since I have been connected with that hospital.

Mr. Nolan. That noise does not affect them?

Dr. Long. It does not; no, sir. These children tell me they would rather work in the mills than out on the farm. I can tell you about the condition of the people before they come to the mills. Most of them who work in the cotton mills have come from the farms. The majority of the people who work in the cotton mills live in a one-room house that generally has one window in it, and that has not any glass in it because the window itself is a wooden window. And the majority of them formerly used light wood knots for lamps. When they come down to a cotton-mill town, they have good houses, as good as the house I live in, and they have electric light, and abundant water supply. Our water supply there is examined bacteriologically every year by the State Board of Health. There is no surface water at all.

Mr. Nolan. You are a member of the board of directors of the hospital, Doctor?

Dr. Long. Yes, sir.

Mr. Nolan. Can you not tell us; give us the figures, or send them to the committee, showing the amount of money contributed by the mill employees toward the maintenance of that hospital, and the amount contributed by the county and by the mill owners and private citizens?

Dr. Long. Last year $5,200 was required for the expenses of the hospital, and $2,600 of that, half of it, 50 per cent of it, came primarily from the operatives. The other 50 per cent is contributed by the mills, the county, and the town or from private individuals, those people who are interested in the welfare of the people who work in the mills. They make up the deficit.

Mr. Almon. Doctor, I judge, from the statement you made a moment ago, that you have had some experience, so far as the rural districts are concerned, as to the ages at which children work and the number of hours they work. I would be glad to have you give the committee the conditions, as you are familiar with them, in regard to those things in your part of the country, the character of labor done by the children, and at what ages they work among the farms in your part of the South, in the districts from which the people who work in the mills largely come.

Dr. LONG. During the crop season—and we raise cotton and peanuts there principally—those children I have seen out in the fields working with the hoe at 12 years of age.

Mr. ALMON. How many hours a day?

Dr. LONG. From 12 to 14 hours a day, from sunrise to dark. Those are the hours during which they work. They can work a greater number of hours during the summer seoson.

Mr. ALMON. Girls, as well as boys?

Dr. LONG. Girls, as well as boys; yes, sir.

Mr. NOLAN. How many months in the year do they work that way?

Dr. LONG. I should say they work five months during the year in that way, when they are working those long days.

Mr. NOLAN. What do they do during the other seven months?

Dr. LONG. During the other seven months they do light work, work around home—that is, when they go to school. The country school down there runs for about six months a year.

Mr. ALMON. About how long does a country boy or girl between 12 and 16 years of age attend school in the rural districts in that section of the country?

Dr. LONG. About six months in the year.

Mr. ALMON. That is better than in most districts with which I am familiar.

Dr. LONG. They will average that, because in some districts they have special school-tax districts, and the season there is from eight to nine months long.

Mr. ALMON. What are the educational and religious advantages in the rural districts in your section of the country, as compared with the educational and religious advantages in the cotton-mill villages?

Dr. LONG. The average child would have to go from 3 to 5 miles to church, whereas in the mill town where I live we have six churches, and two more are being built. All denominations are represented down there.

Mr. DENISON. Doctor, in regard to this contribution which the operatives make toward the fund for maintaining the hospital, is that an optional or compulsory contribution?

Dr. LONG. It is optional with them, of course. The operatives themselves took this proposition up. I put this proposition to them and I said, "If you will contribute 5 cents a week, those of you who make a dollar or more a day, we can give you a hospital; and if you will do that, the mill companies will be glad to make up the difference;" and every one of them said, "We will be glad to do that."

Mr. DENISON. Doctor, are there any physicians in that town who are independent practicing physicians?

Dr. LONG. All of us are connected with the mills, because there is nothing there but cotton mills. There are seven physicians in a radius of from 3 to 5 miles whom these people can get at any time they want, if they do not want any one of us. There is not a week that passes when there is not a doctor who is called from some other place.

Mr. DENISON. How long have you been practicing at the mill where you are now located, Doctor?

Dr. LONG. Five years, nearly six years. I went there August 1, 1910.

Mr. DENISON. Have you had any independent practice, outside of the mills?

Dr. LONG. Before I went there; yes. I was assistant physician in the State hospital, the Virginia State Hospital at Richmond for about two years. That is a hospital where they have 1,700 patients.

Mr. DENISON. Have you observed enough to answer this question—as to whether or not the girls who work in the mills marry at a younger or later age than those employed in other occupations?

Dr. LONG. In my section of the country they do not. They marry at about the same age as the girls employed in other occupations. There is not any question but that the social, moral, and educational condition of the mill operatives is infinitely better in the mill villages than their condition was in the rural districts from which they came before they went into the employ of the mills.

Mr. KEATING. Doctor, what is the name of the town in which your mill is located?

Dr. LONG. Roanoke Rapids, N. C.

Mr. KEATING. That is an incorporated town?

Dr. LONG. Yes, it is an incorporated town, but I should say only about 40 per cent of the people live in the corporate limits.

Mr. KEATING. What is the population?

Dr. LONG. The total population, the mill population, is between 4,500 and 5,000 people.

Mr. KEATING. That is an exclusively mill population?

Dr. LONG. Yes.

Mr. KEATING. Does the town of Roanoke Rapids maintain a hospital?

Dr. LONG. No.

Mr. KEATING. The town depends on your hospital, does it?

Dr. LONG. Yes; it is the only hospital in the county.

Mr. KEATING. The only contribution made by the town for hospital purposes is the $100 contributed to your hospital?

Dr. LONG. That is all the town contributes.

Mr. KEATING. The only contribution made by the county is the $100 contributed to the hospital?

Dr. LONG. Yes.

Mr. KEATING. Are you famliar with the proportion of the taxable property in Roanoke Rapids owned by this mill corporation?

Dr. LONG. I am.

Mr. KEATING. What is that proportion?

Dr. LONG. It is about 87½ per cent. The mill companies pay that much of the taxes of the town. I know that because I am one of the board of town commissioners there, and we have to set the tax rate. That is the reason why I know that to be a fact.

Mr. KEATING. So that any taxes which you might levy as a member of the board of trustees for the purpose of maintaining that hospital would fall on the property of the men who control this mill?

Dr. LONG. Yes.

Mr. KEATING. If you were to contribute one-half of the cost of maintaining this hospital and the employees contribute the other half, the burden of contributing the half levied on the town would fall on the owners of the mill?

Dr. LONG. Yes; about 87½ per cent of the amount paid would come really from the treasury of the mills.

Mr. KEATING. So that in contributing to the support of the hospital as a matter of philanthropy the mill owners are really avoiding their obligations as taxpayers, are they not?

Dr. LONG. Avoiding their obligations as taxpayers?

Mr. KEATING. Yes.

Dr. LONG. No; I do not consider it that way.

Mr. KEATING. You do not consider that there is any obligation on a town of from 4,000 to 5,000 people to maintain a hospital?

Dr. LONG. There is an obligation on the part of every community of that size to maintain a hospital, but they do not do it. You can take the situation in our county, where they have a number of cotton-mill villages, but they do not have hospitals.

Mr. KEATING. I can not speak for your State and county, but in the States with which I am familiar, communities of 4,000 and 5,000 people will raise money for a municipal hospital by placing an assessment upon the property of that town.

Mr. KITCHIN. I think you are laboring under a misapprehension. Down in the State of North Carolina, as the doctor has said, I do not think there are more than two or three towns in the State of North Carolina that maintain municipal hospitals. Some hospitals have been given by donations, by individuals, and some are run by private physicians, but we do not, in general, in that State have municipal hospitals.

Mr. KEATING. The point I desire to make is this: We are being told here, as the reason why this legislation should be defeated that these gentlemen who control the mills expend large sums of money for welfare work. I am trying to prove by this witness that a large part of this welfare work is the work ordinarily done by the taxpayers, the expenses being met by the taxes paid by taxpayers in ordinary American communities, and that if this community were to maintain its own hospital, as other American communities maintain their hospitals, that these gentlemen who are posing as philanthropists would be contributing the money as taxpayers.

Mr. KITCHIN. You have misconceived the purpose of describing this welfare work. Our purpose was to show that the conditions under which children work in these mills was better than otherwise, and that the conditions are so good that it would be a hardship to them to drive them from this kind of labor.

Mr. KEATING. Do you pay for maintaining the schools in your town?

Dr. LONG. Yes.

Mr. KEATING. Who pays the expenses for operating the schools?

Dr. LONG. We have a special tax district, a grade-school district it is called, that is maintained by taxes.

Mr. KEATING. Levied on all property?

Dr. LONG. Yes, levied on all property, and of the taxes paid on that property, those taxes paid on 87½ per cent of it are paid by the cotton-mill owners.

Mr. KEATING. Those taxes are paid by them because they own 87½ per cent of the taxable property in the town?

Dr. LONG. Yes, they own 87½ per cent of the taxable property in the town. We have a graded school there, and have, I think, 15 teachers. I am not on the school board and I do not know the exact number, but I do know they prepare children for college there. This year there were several of the cotton-mill children who worked in the cotton mills during their vacation, who are now away at college, and doing very excellent work.

Mr. ALMON. As a surgeon you are at least familiar, to some extent, with the conditions in the Southern States as to hospital facilities in towns of 4,000 or 5,000 population. Do you know of any towns of that size, and if so, how many, where hospitals are maintained by the municipalities?

Dr. LONG. There is no town in the State of North Carolina of 5,000 population that maintains a municipal hospital, not one.

Mr. ALMON. Do you know of any other towns in any southern State that maintain a municipal hospital?

Dr. LONG. You mean of 5,000 population?

Mr. ALMON. Yes.

Dr. LONG. Not any municipal hospitals; they are privately owned.

Mr. ALMON. I do not know of any such hospital in towns of that size in any of the southern States.

Dr. LONG. I do not think you will find any in the South.

Mr. ALMON. They are all privately-owned hospitals.

Dr. LONG. I have never heard of a municipal hospital in any town in the United States of that size.

Mr. KEATING. You have a great deal to learn along that line, Doctor. In most northern and western towns, if they do not maintain hospitals themselves, they contribute very liberally to the support of the hospital in the town.

Dr. LONG. I did not know that.

Mr. COOPER. Are you familiar with the physical condition of the young girls who work in our department stores in the North?

Dr. LONG. I am not familiar with that.

The CHAIRMAN. Is there anyone else you desire to be heard, Mr. Kitchin?

Mr. KITCHIN. I would like the committee now to hear Dr. L. F. McBrayer.

STATEMENT OF DR. L. F. McBRAYER, OF ASHEVILLE, N. C.

Mr. KITCHIN. Mr. Chairman, Dr. McBrayer is the superintendent of the North Carolina Sanitarium for Tuberculosis. Doctor, will you state your name, your occupation, and your experience as a physician? I may say, Mr. Chairman, we wish to show by Dr. McBrayer the conditions in the mills and the effect of these conditions upon tuberculosis.

Dr. McBRAYER. I am 45 years of age, and have been practicing medicine since I was 21 years old. I was health officer of the city of Asheville, N. C., before I took up this work. I am a member of the State board of medical examiners, and was president of the State medical society last year. I have been making a special study of the subject of tuberculosis for several years. The city of Asheville is a health resort where a great many tubercular people go, and the health department there is very strict with regard to the conduct of the tubercular people.

The death rate among the citizens of the town is very low, both from tuberculosis and from everything else. They have, perhaps, a hundred or more deaths a year among the visitors.

Since I have been in charge as superintendent of the State sanitarium and chief of the bureau of tuberculosis of the State board of health, I have been studying the disease more thoroughly.

I believe the main thing Gov. Kitchin wanted me to speak to you gentlemen about was an investigation we made into one of the mills down there last summer, and among the people of the mill village. This was a silk mill village at the town of Wadesboro.

The State newspapers charged that this mill was causing a great deal of tuberculosis, and mentioned the fact that there had been 35 deaths in the last 15 years there in that village of a little more than 300 people. The mill people resented that statement and the town people resented it, and the mayor of the town requested an investigation.

The owner of the mill, who is a resident of New Jersey, I believe, joined with the mayor in that request.

The investigation proved that out of 307 inhabitants at that time, and I think the mill was established 20 years ago on a small scale—at the time of the investigation there were 307 people in the mill village and there had been 92 deaths from tuberculosis in 18 years, which is about 16 times as many as they ought to have had, considering the average death rate in the United States from that disease, a ratio of about 16 to 1.

They went into a careful investigation of every inhabitant of the village. The first thing we did was to make a Vinquet test on every operative in the mill.

Mr. DENNISON. What is the Vinquet test?

Dr. McBRAYER. That is a very delicate test which shows a tubercular infection of the minutest kind. We found that about 45 per cent of those working in the mill responded to this test. That showed that they were infected with tuberculosis.

We also found a good many others through an examination we made.

Then we went out and examined every person in the village. We gave the same test to all who would allow us to do so. All the mill operatives did take the test, but the folks who were not working in the mill were not so kind to us and so we did not get so many of them.

But the percentage of those having tuberculosis, or the percentage of those who responded to the test was about the same or a little higher, but in the homes of the people in the town we got perhaps more people who had been living with those who had had tuberculosis.

After we had finished that we went over the matter again and made a physical examination of every patient who had responded to the test, and we found that 45 per cent of those had some physical signs of having tuberculosis, some signs either in the lungs or in the glands. The other 55 per cent did not show any physical sign, that is, they were not sick at all, although the test showed they had been infected, and that at some time or other they had probably gotten the disease.

Then we made an investigation into every death that had occurred. Of course, we have not had registration of vital statistics in rural communities except for the last two years, and we could not depend upon the records of the State or of the United States with regard to that. We made a house to house canvass, and we also got the names from the doctors in the town of the people who had died there, and we found there had been 92 deaths from tuberculosis. And that is nearly one-fourth of the present population.

Then we investigated the places where these cases had come from, and how they happened to be there, and we found, as I remember it, that between 95 and 98 per cent of all the cases that had occurred there, and all the cases that were there at that time had either lived in the house with a case of tuberculosis, or next door to a house in which there was a case of tuberculosis.

The same thing was true in regard to those who responded to the Vinquet test whom I spoke of a while ago. A similar work has been done in the State of Wisconsin in a rural community that showed that 87 per cent of the people in two districts who lived in the same house with a case of tuberculosis, an advanced case of tuberculosis responding to this test, were positive to the same test which we used, and that 50 per cent of the people who lived next door to a case of tuberculosis were positive to this test, and that people who had simply come casually in contact with a tuberculosis case, in school or in church, and had not lived next door or lived in the same house with a tuberculosis case—that of those people only 10 per cent responded to the test.

Then we worked that out with each family. But before going into that I will say there were 92 families—I believe 92 or 97 families in that village, and that a death from tuberculosis had only occurred in 25 of those families, and only in 15 family trees, the balance of the families having never had a case of tuberculosis. I know you gentlemen of the committee understand what I mean by a family tree, grandparents, children, grandchildren, and so forth. A mother had tuberculosis and she had two sons. One of them had lived on a farm and she had lived with him up to within two or three months before she died. He became infected with tuberculosis and became unable to make a living on the farm.

This son had two boys, the grandchildren of his mother. He moved to this mill town and put these two boys in the mill for the purpose of supporting him. In about six months he died. A little while after that it was found that two of the boys were infected and had probably been infected with tuberculosis by the grandmother and also by the father, and after a while they died.

When this man put his children in the mill to support him his mother went to live about 30 miles in a different direction, to live with the other son, and she lived there three months.

This particular son had a wife and a boy 15 years old, and a girl 2 years old, and another girl baby 8 months old. The boy of 15 worked on the farm with his father. The mother had to wait on the mother-in-law, besides doing the kind of work that is ordinarily done on a farm of that kind, cooking and washing, taking care of the children, taking care of the chickens, gathering the vegetables from the garden, and things of that kind, such things as the women in the rural districts of the South usually have to do.

She stated that while she regretted very much to leave these girls in the same room with the grandmother she had no alternative. The grandmother lived three months with this family and died.

In four years after that the child who was 2 years old at that time showed clinical symptoms of tuberculosis. The husband of this woman and the son of this mother who had tuberculosis died within the course of a month after his mother died. He died from an attack of dysentery. That left the widow with a boy of 15 years, a girl 2 years old, and a baby.

She moved to Wadesboro, and put the oldest boy in the mill to support her.

The 2-year-old girl four years later showed clinical symptoms of tuberculosis, and died at the age of 12 years or a little more.

The 8-months-old child did not show any symptoms of tuberculosis and did not appear to be sick until she reached the age of 13 years, and she died 18 months later of tuberculosis.

This mother has tuberculosis now but is able to continue to do the housework. The boy, who is working in the mill, is also infected with tuberculosis, but he continues to work in the mill and in that way to support himself and his mother.

The boy is not sick, and he has not shown any clinical symptoms of tuberculosis to speak of. He does show a little trouble in the lung, but he continues well enough to work in the mill.

That is the situation which brought those two families into this mill village, and the tuberculosis there was brought in by reason of two sources of infection in these two families.

That is a history of the other 13 families in which 92 cases of tuberculosis occurred in this village. To the best of my knowledge and belief all that infection that produced those 92 deaths was due—or 98 per cent of it at least was due—to close contact in the home with cases of tuberculosis. And so far as I was able to find out there seemed to be no infection due to any contact with any cases of tuberculosis in the mill.

Mr. **Kitchin.** Doctor, you have given us a history of an investigation of the silk mill at Waynesboro. There was some evidence at the last session of Congress that working in a cotton mill had a tendency to produce tuberculosis. I wish you would state to the committee whether you have given that any consideration, and what, in your opinion, is the fact.

Dr. **McBrayer.** I have not made any investigation into the cotton mills, as I have into the silk mill, but there can be no tuberculosis without infection from some other case. It is impossible for any trade, or any occupation, to produce tuberculosis without infection. The stone cutters trade is a very dusty trade, and fine particles of stone are carried into the lung, into the air cells, and on cutting the lung with a knife you can feel the particle of stone. Yet that does not produce tuberculosis, but it is apparently a frequent cause of pneumonia, traumatic pneumonia. The same is true to a limited degree, perhaps, of coal dust, but tuberculosis can not be caused except by exposure to some other case.

Mr. **Cooper.** May I ask the Doctor a question, Mr. Chairman?

Doctor, you just gave us the history of a family, in regard to tubercular trouble, and at the close of that history you told us where this boy who was infected with this disease had gone back to work in this cotton mill.

Dr. **McBrayer.** Silk mill. He has been at work there all the time.

Mr. Cooper. Do you think that is the right thing to do, inasmuch as you know that boy is infected with the disease? You just got through telling us how it could be carried from one person to another, and yet you say that this boy, who is infected, is allowed to go into this silk mill and work with other children.

Dr. McBrayer. It is impossible for him at this time to infect any one else. It is not sufficiently far advanced.

Mr. Cooper. Have you any provisions for tubercular people down there, in the way of sanitariums, where you can put them?

Dr. McBrayer. Yes, sir; I have got one girl there with me now.

Mr. Cooper. Is there not a possible danger that this boy will infect other boys and girls in this silk mill?

Dr. McBrayer. No, there is no possible danger of that.

Mr. Cooper. Why?

Dr. McBrayer. Because he does not expectorate germs.

Mr. Cooper. But you say he is infected.

Mr. McBrayer. Yes, but he has no cough; he has no expectoration.

Mr. Cooper. But the probabilities are that that will develop later?

Dr. McBrayer. It may some time; yes, sir. I should guess that particular case would.

Mr. Cooper. Do you not think it would be a good idea, Doctor, if boys like that should be taken care of, without having to go in with other boys and girls?

Dr. McBrayer. There is no particular danger in going with other boys and girls at all. There is not the remotest danger.

Mr. Cooper. I can not just understand the logic of that argument after you have just gotten through telling us that it was a very infectious disease and was carried from one person to another.

Dr. McBrayer. Scientifically speaking, we have what we call open and closed cases. I spoke to you about the work in Asheville. The closed cases are allowed to go where they please. They stay in hotels, boarding houses, or go where they please. The open cases were required to stay in certain licensed sanitariums.

Now, by the open case you mean one who has advanced to that point where he is expectorating pus and where this pus contains tuberculous germs.

By the closed case you mean one who has no germs in the sputum. This test, as I told you, was very delicate, and it might be that you could see the difference between this man and the two girls and the boy. He kept the two girls with him all the time, and the boy worked out in the field. He evidently did not get as much infection as the two girls.

Mr. Cooper. Would not the chances be against the boy, Doctor, in that factory? Would not his chances be better if he was out in the open air?

Dr. McBrayer. That depends altogether upon the conditions. If the factory was well ventilated—and he has to make a living somewhere.

Mr. Cooper. I realize that.

Dr. McBrayer. If you wanted to speak of the ideal you would put him either in a sanitarium or where he could have absolute instruction as to his daily——

Mr. Cooper. I asked you if you had that provision in your State.

Dr. McBrayer. We have not for all our people. We have for ome. We are extending it as rapidly as we can.

Mr. KEATING. Doctor, as a physician who has had a great deal of experience in the South, at what age do you believe that girls should be permitted to work in a cotton mill, or have you given any thought to that subject?

Dr. McBRAYER. I have not investigated that fully.

Mr. KEATING. Would you consider that a girl might be admitted to work in a cotton mill at 12 years and work 11 hours a day with safety?

Dr. McBRAYER. Well, I think it is pretty hard work for a grown man. If I had my way about it we would not——

Mr. KEATING. You do not wish the committee to understand that anything you have said here to-day is an argument against limiting the hours of labor of children in cotton mills?

Dr. McBRAYER. Not at all.

Mr. NOLAN. Let me ask you, Doctor. You say that 45 per cent of the operatives in the silk mills respond to the disease?

Dr. McBRAYER. Yes.

Mr. NOLAN. What percentage of them were in the advanced stage of tuberculosis?

Dr. McBRAYER. There were not any.

Mr. NOLAN. There were none of them in what you consider a dangerous state, so that other employees working in connection with them might be infected?

Dr. McBRAYER. No, sir. I made a very careful physical examination of every one of those, and there was not one of them that was so far advanced that it would infect the others.

Mr. NOLAN. That is the only industrial establishment in North Carolina that you have investigated, is it?

Dr. McBRAYER. In that way; yes, sir.

Mr. NOLAN. You have not made any general investigation to find out what percentage of people in a given industry might respond to the disease?

Dr. McBRAYER. No; I have not.

Mr. KITCHIN. That was because that was the only one you had any information of that had shown any excessive tuberculosis?

Dr. McBRAYER. Yes, sir. That is the only thing of that kind that has ever been charged in the State. I am not quite sure. I might say—I do not think there has ever been as extensive and minute an examination in the United States as that was by anybody.

Mr. ALMON. Doctor, you remember the old theory that tuberculosis was hereditary?

Dr. McBRAYER. Yes, sir.

Mr. ALMON. I understand from you, do I, that it is your opinion, and the opinion of the medical profession as a rule, in this day and time, that in order to have tuberculosis you must be infected with the germ from some other patient?

Dr. McBRAYER. Yes, sir.

Mr. ALMON. You might inherit a weakness or weak organs that would make you more liable to contract and retain and develop the disease, but you must have the germ from another patient?

Dr. McBRAYER. That is barely possible. There is a good deal of doubt about that.

Mr. ALMON. Doubt about what?

Dr. McBrayer. About inheriting a weakness, though I should say that is the general belief of the medical profession and those who are studying heredity at this time. Two of the finest children that I know of are children of a patient of mine who had tuberculosis, a man, and he is well now, and his children are fine enough specimens to take a prize at the State fair. The cattle breeders have probably developed that particular thing better than anybody else. They have no trouble in taking a tuberculous cow and raising calves from her right straight along, and what they do is this, that when the calf is born they take it away. I have seen that done myself a good many times, but if the calf is left there to live with its mother and use her milk, it is probable that it will develop tuberculosis.

Mr. Smith. Is the meat of an animal that has tuberculosis fit for food?

Dr. McBrayer. Yes, sir; if it is not very far advanced, it is. As a rule, if you find a tuberculosis gland, that part of the meat is simply discarded, and the animal is used for food.

Mr. Smith. You have a law against expectoration in your city or State, have you?

Dr. McBrayer. Yes, sir.

Mr. Smith. How is a patient or person expected to take care of his sputum?

Dr. McBrayer. He is supposed to use a sputum cup, and burn it.

Mr. Smith. Supposed to use a cloth?

Dr. McBrayer. Yes, or a cup. They make cups and distribute them over the State now that you can carry in your vest pocket, and when you return home you burn it, or you can carry a paper napkin if the expectoration is not profuse.

Mr. Smith. Do I understand that the disease is not contracted from a cold?

Dr. McBrayer. Not at all.

Mr. Smith. It is supposed that if you catch a severe cold it may run into a lung disease?

Dr. McBrayer. That is the popular opinion.

Mr. Cooper. What percentage of the people get this disease after they are four years of age, Doctor?

Dr. McBrayer. That is very difficult to tell.

Mr. Cooper. Very few, is it not?

Dr. McBrayer. No, sir; I think a goodly number. There has not been enough work done along that line, to say. For a good while there was a general opinion it was practically all contracted in childhood, but I do not think that is correct. I think that in the next few years we will be able probably to answer that question.

The Acting Chairman. Gentlemen, are there any further questions of the doctor? Doctor, is there anything you care to present yourself, sir?

Dr. McBrayer. Not at all, sir.

STATEMENT OF MR. J. B. HARRIS, OVERSEER OF SPINNING, GREENWOOD MILLS, GREENWOOD, S. C.

The Acting Chairman. Mr. Harris, give the stenographer your name, residence, and occupation.

Mr. Harris. J. B. Harris, overseer of spinning, Greenwood Mills, Greenwood, S. C.

Gentlemen, it is not my intention to take up a great deal of your time here, in an attempt to discuss the child-labor problem. I would rather, if I can, answer any questions, after a few words, that you gentlemen of the committee would care to put to me.

I went to work in the cotton mill when I was 12 years old, and have been at it continuously ever since. I went to school between 7 and 12, and went to work at 12, because I was obliged to go to work to make a living, and not because I wanted to quit school. I did at that time the same kind of work that most of the children that would be affected by this proposed law are doing at the present time. I want to say that a long time ago I did that work, and probably I might be able to make the work a little plainer than it has been made before this committee, with the aid of that circular that was sent here by the Riverside and Dan River Mills.

I am at present employed as overseer of spinning at the Greenwood Cotton Mills, and have in my department about 150 operatives, of which about 15 are boys between 14 and 16 years of age and about 20 are girls between 14 and 16.

Our school district, in which this mill is located, has a compulsory school act, and at the present time, so far as I know, we only have one child in my department under 14 years of age. That child is the sole support of a widowed mother. There are a number of our people that send their children to school over 14 years old, and I am glad to say that since I have had charge of the spinning room I have never yet refused a request to release from work any child that the parents wanted to send to school. I have always encouraged it, always been advocating compulsory education, ever since I was old enough to realize what an education meant to anybody. Most of them, I believe, as far as they are able to do it, will send their children to school. That is being done all over our State more than it has ever been done before. I do not think our present compulsory education law is far-reaching enough, and I believe it will be strengthened at this coming session of our legislature.

I believe, furthermore, our age limit will be raised to 14 years. I think that is about as far as our people are ready to go at this time. I do not think they are advanced far enough to go beyond the 14-year age limit at the present time, and I believe it would be an injustice to force this proposed law on the mill people of the South when they do not want it, and when I say the mill people do not want it, understand that I have reference to the people, the common laborers of the mill, and not the mill owner. It has been my observation that the mill owners were always able to take care of themselves. I think the operatives' side of the question should be given more consideration than it seems to have been given under this bill. Most of my personal friends and most of my associates are common laborers of the mill.

It has only been a few years since I was doing common labor and the probability is I may take it up again, and I am ready to take it up at any time that it becomes necessary. I think it is a mistaken idea that there is a great deal of antagonism between the common laborers of the mill and the mill owners in a political way. Probably some of you may be familiar with the political conditions in South Carolina, and unfortunately there is a little discrimination along that line, but that does not affect the relations when it comes down to business. I earnestly believe from the bottom of my heart that the cotton-mill officials are the best friends that the laboring people have in the South to-day. That may sound like a prejudiced statement, but I honestly believe that. I have in mind right now a number of cases, people right there in our mill village, that through some little accident or sickness are obliged to have a little money, and they do not go to these politicians or people that claim to be great friends of theirs——

Mr. Almon. Candidates for Congress?

Mr. Harris. No, sir.

Mr. Keating. Perhaps that is because Members of Congress haven't any money, as a rule.

Mr. Harris. I do not think so, sir, but invariably they go to the superintendent or overseer of a mill, and most always they are accommodated with a little loan, and it does not cost them any interest. It is not philanthropy, in the generally accepted sense of the word. We have got to make conditions good around our industrial plant to get the best class of labor that we need to operate the plant. I say "we" because it takes in the whole business. We have at our mill, I believe, a class of the best sets of mill labor in the South. The conditions are not ideal and we are working to make them better.

I think you have a petition here from the Greenwood Mills, if I am not mistaken, as well as I remember, I signed that petition myself. It was brought to me, if I am not mistaken, and I was the first man that signed the petition. It was brought to me by a common laborer of the mill.

I have discussed the matter with the heads of families that have children in my department, and they express themselves as opposed to the bill. They are just now getting readjusted to the 14-year age limit, which is in effect in that school district for five months during the compulsory school term, and there is a further provision in the compulsory act, I think, that requires the attendance of a child between 14 and 16 for a little time during the current school term that can not read and write. That affects our district also.

I will be glad, if I could, to answer any questions that you gentlemen care to ask me.

Mr. Keating. Your objection to the bill, then, is based on the provision which limits the hours of labor for children between 14 and 16 years to eight hours a day?

Mr. Harris. Yes, sir.

Mr. Keating. Do you object to the provision in relation to night work? Would that affect your mill at all?

Mr. Harris. No, sir.

Mr. Keating. So that the bill, as it stands, with that single exception, would not injuriously affect your mill?

Mr. Harris. Not materially; no, sir.

Mr. Keating. Now, as to the provision limiting the hours of labor of children between 14 and 16 years to eight hours day, would it be possible for you to so arrange matters in your department that children between 14 and 16 might be employed eight hours a day, and the mill operated for the usual number of hours? I do not know whether you were here yesterday when I stated the proposition as it has affected other industries, for instance, department stores, where they have an eight-hour day for women. The management have so arranged matters that while they work the women eight hours a day, and work children eight hours a day, they maintain in many instances the old hours for the store; the store is kept open for the usual time, and they arrange that by bringing on a part of the force, we will say, at 7 o'clock in the morning, that work eight hours, and goes off, and another part is brought on at 8 o'clock, and works eight hours, and goes off. Whatever the arrangement may be, the result is that the store is kept open the usual number of hours, and yet no woman or child in the store is worked more than eight hours a day. As I stated yesterday, that problem is worked out in other industries quite satisfactorily, and I wondered, as a practical man, if you were given the opportunity by the directors of your mills to work out that problem in your department, do you believe it would be possible for you to work it out along those lines?

Mr. HARRIS. I would not say it was impossible; no, sir. I think the bill would affect the operatives considerably more than it would the management. That is my candid opinion of it.

Mr. KEATING. Understand me. The thought I had is that the children between 14 and 16 years would be permitted to work. It is not the object of this bill to forbid the employment of children between 14 and 16 years who are working in cotton mills. The provision is that they shall not work more than eight hours a day. The argument has been used that if they are only permitted to work eight hours a day, and the ordinary laborer of the mill works 11 hours, there is no arrangement by which you can continue to employ children between 14 and 16 years, and as a practical man, if you received instructions from your employers to continue to employ children between 14 and 16 years, and see to it that no child worked more than eight hours in a day, could you solve the problem?

Mr. HARRIS. I would not say it could not be done. Of course, I was present yesterday when that matter was discussed here and, if I am not mistaken, Mr. Long stated that it would call for additional machinery in the spinning room to make up the lost time. I would not say it could not be done.

Mr. KEATING. Why would it be necessary to employ extra machinery? You have a certain amount of machinery which must be taken care of?

Mr. HARRIS. Yes, sir.

Mr. KEATING. And that machinery is sufficient to perform the work of the mill. Now, your problem to take care of that particular number of machines?

Mr. HARRIS. The different departments of the mill, Mr. Keating, are so proportioned that each department supplies the succeeding department with the raw stock.

Mr. KEATING. Yes; I understand that.

Mr. HARRIS. With the correct amount.

Mr. KEATING. And the amount of machinery you have in the various departments is determined in the same manner?

Mr. HARRIS. Yes, sir.

Mr. KEATING. At the present time you have sufficient machinery in your spinning department to take care of the product of the other departments of the mill?

Mr. HARRIS. Yes, sir.

Mr. KEATING. So that in order to take care of that product it is not necessary for you to increase your machine capacity? The problem you have is to take care of your machines and to have a sufficient number of children to work on the machines to take care of the machines?

Mr. HARRIS. I do not understand just what you are driving at.

Mr. KEATING. Well, now, how many machines have you in your spinning department?

Mr. HARRIS. Why, I think about 232.

Mr. KEATING. That is a sufficient number of machines to take care of the product of your factory?

Mr. HARRIS. Yes, sir.

Mr. KEATING. Provided they are operated 11 hours a day. If they are only operated 8 hours a day, you would have to increase the number of your machines?

Mr. HARRIS. That is it, exactly.

Mr. KEATING. The thought I had in mind is not to decrease the number of hours a machine will operate. I am perfectly willing that the machines should operate 11 hours a day. I do not want the children to operate 11 hours a day. That is the thought. So, we will proceed to operate the 232 machines for 11 hours a day. We will operate them with children between the ages of 14 and 16 years, if you please, in order to make the problem perfectly clear to you, but no child who works on the machines will work more than 8 hours a day. In other words, you will relieve a child when he has worked 8 hours a day. Can you so work out your labor problem as to bring that about?

Mr. HARRIS. I hardly see how it could be done, working 8 hours a day, sir. Our laws are 11 hours for the first five days and 5 hours on Saturday. Say, for instance, they work 8 hours for the first five days; how are you going to arrange it on Saturday, when they only work 5 hours?

Mr. KEATING. Under this law they can not work more than 8 hours in any one day.

Mr. HARRIS. It would either call for a complete organization, as I see it. of the southern mills, which would case children between 14 and 16 to step out of the mill. My candid opinion on it at the present time, under present conditions, is that the children, most of them, all of them, under that law, between 14 and 16, would be stepped out.

Mr. SMITH. How many would there be in the mill?

Mr. HARRIS. I have got about 35.

Mr. COOPER. You say you do not object to the 14-year limit, Mr. Harris?

Mr. HARRIS. We do have that, that is true, five months of the current school term.

Mr. COOPER. When you stated you would not object to the 14-year limit——

Mr. HARRIS. I would not, because I believe our State law is going to be raised to that at this session of the legislature.

Mr. COOPER. Do I understand that one part of your mill is dependent on the other—that is, your weaving department is dependent on the spinning department, and these machines are continued in operation all the time?

Mr. HARRIS. Yes, sir.

Mr. COOPER. In other words, if your boys and girls left their work at the expiration of eight hours, then you would have no way of supplying these machines, to continue the operation of the other parts of the mill? Is that what I understand?

Mr. HARRIS. Without putting in additional machines.

Mr. COOPER. How could you do it if you put in additional machinery?

Mr. HARRIS. If you put in additional machinery——

Mr. COOPER. You could turn out the same work in the eight hours, is that it?

Mr. HARRIS. Turn out the same work in the eight hours. That is the only way that I see that it can be done.

Mr. COOPER. How many boys and girls have you in your mill?

Mr. HARRIS. Between 14 and 16?

Mr. COOPER. How many additional machines would you have to put in?

Mr. HARRIS. I could not answer that, offhand.

Mr. COOPER. You can give a fair estimate of it.

Mr. HARRIS. In our plant there our percentage of operatives between 14 and 16 is, I should say, about 10 per cent.

Mr. COOPER. That is, you would have to put in 10 more new machines? That is what I want to know.

Mr. HARRIS. It would take about 10 per cent of the present equipment in the spinning room; it would take about 20 per cent to take care of the short hours.

Mr. COOPER. Have you any idea what additional expense that would be?

Mr. HARRIS. No, sir; I am not familiar with the price.

Mr. COOPER. What would the additional wages be?

Mr. HARRIS. There would not be any additional wages. There would be less wages if there are less hours.

Mr. COOPER. In other words, then, you mean to say that if the boys and girls had to work eight hours you would have to reduce their wages?

Mr. HARRIS. They are all paid by the hour, sir. It would be automatically reduced.

Mr. KEATING. You were discussing the point of dividing it into two shifts.

Mr. COOPER. Yes; that is what I wanted to get at.

Mr. KEATING. Have you a sufficient labor supply to take care of two shifts of five hours and a half a day?

Mr. HARRIS. I do not think that is a practical proposition, Mr. Keating.

Mr. KEATING. But have you the children there who could do the work?

Mr. HARRIS. No, sir.

Mr. KEATING. You are quite positive on that point, are you?

Mr. HARRIS. Yes, sir.

Mr. KEATING. Now, as a practical man, if it could be shown to you that in mills in other States, in other cotton mills, the plan that I have suggested has been found workable would you say that there is any reason why you could not carry out the same scheme in South Carolina?

Mr. HARRIS. What plan was that?

Mr. KEATING. The plan by which you would continue to employ children between 14 and 16 years of age, but would only employ them for eight hours a day, and would operate your spinning department for eight hours a day, thus rendering it necessary to increase the amount of machinery you have in your department. That is the plan I suggested to you a little while ago as having been worked out in other industries. Suppose I could show you that that plan has been worked out in the cotton-mill industries in other States, would you say that it was impossible to work it out in South Carolina?

Mr. HARRIS. I would not say that it was impossible. At the same time I would like to make the point that our conditions down there are somewhat different to what they may be in the country that you refer to. I am not familiar with it. I suppose you refer to Massachusetts. I am not altogether familiar with that, but you must bear in mind the fact that the cotton-mill industry of the South is not as old as it is in Massachusetts, and our people are not as far advanced in it.

Mr. COOPER. Now, Mr. Harris, you say you have 15 boys working in your mill?

Mr. HARRIS. Yes, sir.

Mr. COOPER. Now, suppose you worked two shifts five and a half hours each, of 15 boys each, what additional expense would those 15 boys bring to your factory?

Mr. HARRIS. What additional expense?

Mr. COOPER. Yes; would it bring any if you divided the wages the boys receive at the present time?

Mr. HARRIS. Between the two of them?

Mr. COOPER. What would be the objection to that?

Mr. HARRIS. I do not know where I would get the boys.

Mr. DENISON. Where do you get them when those you have either die or get killed?

Mr. HARRIS. They come in from the rural communities.

Mr. ALMON. Would you have any difficulty in getting boys to work only five and a half hours a day?

Mr. HARRIS. I do not think our people, the people that would be affected by this proposed bill, would stay at the mills for that amount of work. The point has been made before this committee that the proposed law would only affect about one wage earner per family. If I am not mistaken, some of them do not seem to appreciate the fact that probably one wage earner is absolutely necessary in a lot of cases to the support of a family. They do not seem to appreciate that.

Mr. NOLAN. You say there are 232 machines in your spinning room?

Mr. HARRIS. Yes, sir.

Mr. NOLAN. How many of them are in actual operation the year around?

Mr. HARRIS. All of them.

Mr. NOLAN. What do you do when a machine breaks?

Mr. HARRIS. Well, we never have more than one or two broken down at a time.

Mr. NOLAN. You have no machines lying idle to take care of a breakage or anything?

Mr. HARRIS. No, sir.

Mr. NOLAN. They are all in actual operation all of the time?

Mr. HARRIS. Yes, sir.

Mr. NOLAN. How many of your operatives were in the spinning room in the Greenwood mill when you went there?

Mr. HARRIS. Well, I can not say. I have not those figures at hand. I have been there for two years and a half, in charge of the department.

Mr. NOLAN. How long have you been working for the mill company?

Mr. HARRIS. Two and a half years at this particular plant.

Mr. NOLAN. How long have you been working at the mill business?

Mr. HARRIS. Since I was 12 years old.

Mr. NOLAN, How many years ago was that?

Mr. HARRIS. About 17 years ago.

Mr. NOLAN. What I am trying to get at is what other mills you were employed at.

Mr. HARRIS. I first went to work at the Pelzer mills, at Pelzer.

Mr. NOLAN. How long did you work there?

Mr. HARRIS. I worked until I was about, I should say, 19 years old, when I left there.

Mr. NOLAN. Was there any increase in the number of machines in that mill from the time you started until you left?

Mr. HARRIS. Very little.

Mr. NOLAN. Was there any increase in any of the mills you have worked in?

Mr. HARRIS. Yes, sir.

Mr. NOLAN. Where would they get the extra help, then, to supply the machinery, the additional machinery?

Mr. HARRIS. Well, inexperienced labor is constantly coming in from the country, and from the mountainous sections of the country.

Mr. NOLAN. Coming in now?

Mr. HARRIS. Not very much at the present time. We had a lot of new labor come in from the farms right after the war broke out.

Mr. NOLAN. Are they coming in in the same proportion now as they came in in times gone by?

Mr. HARRIS. No, sir; they are going out this spring, more than previously.

Mr. NOLAN. If the mill business in the South increases, whether this law goes into effect or not, you are going to have a shortage of your labor, according to that statement, are you not?

Mr. HARRIS. I say there are more going out than there were last spring. That is the statement I made.

Mr. NOLAN. What are you going to do to supply this shortage of labor, if the production of the cotton mills of the South increases?

Mr. HARRIS. We hope there will be enough left to run our machines.

Mr. NOLAN. Could you not have that same hope if you had to have the same employees, and an eight-hour day for children between 14 and 16 years of age?

Mr. HARRIS. We can hope that, but I do not see how we are going to get it.

Mr. NOLAN. Your hope would not be any different in either case?

Mr. HARRIS. We have some information in hand in our local communities upon which to base the fact that there is likely to be enough operatives left so that we will not run short of help this coming summer. That is about as far as we can see ahead, about six months anyway.

Mr. NOLAN. If this law was in operation now you could meet that condition, as far as getting the required help is concerned, could you not?

Mr. HARRIS. They could push us to do it, and I think we could, by laying off all that we have under 16 years of age.

Mr. NOLAN. Provided that you had a law that no young boy or girl would be allowed to work over eight hours a day?

Mr. HARRIS. All the mills of the South are not supplied with surplus help as we are.

Mr. NOLAN. But you are testifying as to the conditions in your mill.

Mr. HARRIS. I would have to get some additional labor from somewhere, and I feel like I could get them, if it became absolutely necessary.

Mr. NOLAN. You have always been able to meet the labor demand?

Mr. HARRIS. That goes with the running of a spinning room.

Mr. NOLAN. Whenever you have increased the capacity of the mills you have been employed in, or wherever it has increased, you have been able to get sufficient labor in the South to run the mills?

Mr. HARRIS. Yes, sir; for the last few years we have been. I have seen the time when a large percentage of the country was complaining of a lack of operatives.

Mr. NOLAN. But to-day they are operating to capacity?

Mr. HARRIS. Yes, sir.

Mr. NOLAN. As time has gone on, whatever changes were needed, the conditions were met by securing the required number of workers to work in the cotton mills?

Mr. HARRIS. I do not know where they came from.

Mr. SMITH. What percentage of the children between 14 and 16 years of age in your town do you employ in your mill?

Mr. HARRIS. I could not say, sir. We have a town of a population of about 10,000 people.

Mr. SMITH. It is a very small percentage, is it not? Probably 5 per cent? You employ 35 children?

Mr. HARRIS. We employ 35 children in our particular mill, but we have other mills there.

Mr. SMITH. There are innumerable children at that age just as capable to work as these are, is not that so?

Mr. HARRIS. Yes; some of them are a little better fixed in life and there is no necessity for them to work.

Mr. SMITH. You would not find great difficulty in securing a few more to help?

Mr. HARRIS. Well, there would be some difficulty attached to it; yes, sir. If I had to lay them off tomorrow, I would have to stop my machines. I do not know how long I would have to stop them.

Mr. SMITH. Out of a population of 10,000, 35 is not a very large percentage.

Mr. HARRIS. That is true, sir, but that 10,000 represents the population of the town, as a whole, and it is a mill town, as the gentleman just said.

Mr. SMITH. How much more would it cost you to employ children over 16 years of age than it does to employ children between 14 to 16?

Mr. **Harris**. Well, I do not know a sensible answer, hardly, to that question.

Mr. **Smith**. You employ them all by the hour, as I understand it?

Mr. **Harris**. Yes, sir.

Mr. **Smith**. If a person worked an hour, if he is over 16 years of age, do you pay him more than if he were 14 years of age?

Mr. **Harris**. It depends on the class of work he does.

Mr. **Nolan**. Seventeen years ago, when you went to work in the mill, was there any limit in South Carolina as to the age a child could go to work?

Mr. **Harris**. No, sir.

Mr. **Nolan**. No age limit at all?

Mr. **Harris**. As far as I know, there was not.

Mr. **Nolan**. Were they not working some very young children in the mills in those days?

Mr. **Harris**. I think they did; yes, sir.

Mr. **Nolan**. As time went on, they put a limit on it?

Mr. **Harris**. Yes, sir; it has been gradually increased.

Mr. **Nolan**. And they have been able to meet that condition as it arose?

Mr. **Harris**. Yes, sir.

Mr. **Nolan**. Now, you say that if you had to lay off those operatives between 14 and 16 years of age to-day, you would not be able to continue to-morrow?

Mr. **Harris**. No, sir.

Mr. **Nolan**. If you had a year, would you be able to do it?

Mr. **Harris**. If we had a year to make preparations for it?

Mr. **Nolan**. Yes.

Mr. **Harris**. I could not say what the conditions would be a year from now.

Mr. **Nolan**. That would be sufficient time to give you an opportunity to meet this condition, do you not think so?

Mr. **Harris**. No, sir; I hardly think so. I appreciate the fact that most all of the gentlemen are not familiar with our conditions. In the tearing up of an organization, as it takes an organization of any kind to run a plant of this kind, it would cause a lot of friction between the operatives. Say, for instance, there is a parent of a child employed in the mill. If you have to put that child out of the mill, the man may go out and rent a farm somewhere, and the mill will lose two or three operatives, instead of one.

Mr. **Nolan**. You think that the very fact that a boy who probably would earn—what is the average wage of that boy between 14 and 16?

Mr. **Harris**. Well, about four and a half to five dollars a week, I should say.

Mr. **Nolan**. Do you think that in a family of two or three established in your mill community, that with the shutting off of that $4.50 or $5 a week they would go out and rent a farm in preference to continuing in the mill?

Mr. **Harris**. Some of them would.

Mr. **Nolan**. You have 35 operatives now. If the bill went into effect, is it not possible that before the expiration of the time that a considerable number of that 35 would be eligible to work?

Mr. **Harris**. Certainly, some of them would be.

Mr. NOLAN. Say, for instance, it was cut down 50 per cent, then you would only have to get 18 operatives in your mill to operate successfully at the expiration of a year?

Mr. HARRIS. Yes, sir; but you must appreciate the fact that some of them are going out, some of the old operatives, during that time. They are not stationed there.

Mr. NOLAN. I know, but you meet that condition generally?

Mr. HARRIS. Yes, sir.

Mr. NOLAN. Why can you not meet this condition within a year's time?

Mr. HARRIS. I have not stated that the condition can not be met.

Mr. NOLAN. Is it not a fact that it could be met successfully without any considerable hardship?

Mr. HARRIS. I do not think so; I do not think it could.

Mr. NOLAN. Eighteen operatives out of the total number in the mill——

Mr. HARRIS. Thirty-five in my department.

Mr. NOLAN. I mean in the whole mill.

Mr. HARRIS. There may possibly be a few more children in the other departments of the mill, but there is not enough in the other departments to amount to anything.

Mr. NOLAN. But how many employees in the mill are parents of children?

Mr. HARRIS. About 400.

Mr. NOLAN. Eighteen out of four hundred?

Mr. HARRIS. Thirty-five out of that, probably.

Mr. NOLAN. Supposing 50 per cent would be eligible at the expiration of a year's time, and a year is allowed under the bill, between 14 and 16, that 18 or 50 per cent of that would become 16 years of age at the expiration of that time?

Mr. HARRIS. I see the point you are attempting to make there, but during that time there is going to be some more coming in between 14 and 16 years of age, providing the law is not passed, and at the time that law is to go into effect we will have just as many, or there might be some slight difference in it, but not enough to amount to anything, as we have at the present time.

Mr. NOLAN. But you can provide that they would not come in so that they would have to go out. You can provide that they would be of sufficient age to be eligible to work at the time the law went into effect?

Mr. HARRIS. It strikes me that Mr. Long ought to have said something along that line, I think, so as to make it two years before it goes into effect.

Mr. NOLAN. We are trying to get at now what would be considered a practical amount of time.

Mr. HARRIS. I should not think less than two years if you are asking for my opinion.

The ACTING CHAIRMAN. Mr. Harris, do you care to say anything else, sir?

Mr. HARRIS. No, sir; I have not anything else to say.

The ACTING CHAIRMAN. Gentlemen, it is 12 o'clock. What is the pleasure of the committee about taking a recess?

Mr. KEATING. Gov. Kitchin, how many other witnesses have you?

Mr. KITCHIN. Only two others. We will get through very quickly if we are permitted to.

Mr. KEATING. I suggest we put on the witnesses now, and I will promise to refrain from asking unnecessary questions.

Mr. KITCHIN. I understand, gentlemen, the other side wants to put on some evidence. I do not think any argument ought to be made until all the evidence is in.

Mr. KEATING. That is what I had in mind, that we could close up the evidence before 3 o'clock.

Mr. KITCHIN. I am hoping we can.

Mr. NOLAN. You mean to stay in continuous session?

Mr. KEATING. No, that we could take an hour off for lunch.

STATEMENT OF MR. DOUGLAS C. RUFFIN, MAYORDAN, N. C.

Mr. RUFFIN. Gentlemen of the committee, there is one item that I wish to call your attention to especially. Eighty per cent of the mills, I think, in the South own their own tenements. Their operatives live in these tenements. The families of the management of the mills live in the same town. The families of the management of the mills go to the same churches. The children of the management of the mills go to the same schools as their operatives' children. We are distinct from the mill conditions in the East and North in the fact that we are almost exclusively a mill village by a large percentage of the mills.

I am connected with three mills, and we have our own mill town. We associate together. We are friends. I built the first mill I am connected with 21 years ago. I have families living there to-day that have never worked in any other mill. Sixty-five families of ours own their own homes. These people come from the tenant class out on the farms. If you are familiar with North Carolina we can tell you that these people come there from Stokes and Surray and Allegheny Counties, and they come there, as a rule, with practically nothing. Their crops are made by advancement of the landlord, the landowner, and if they have an unsuccessful or bad season they come to the mills without anything. That was the case with ours. We are in western North Carolina, and when we built this mill 21 years ago these people flocked in there. It was after the panic of 1893. You could get all the help that you wanted in those days in our part of the country for 45 cents for a man. Of course, conditions have changed. Those people have come there with us, and, as I say, 65 families own their own homes. These homes were built in this way. They would come to us and borrow the money and contract for the home, and pay us back practically without interest so much each pay day until these people are as much a portion and have as much interest in our little mill town of 2,500 people as I have or as any stockholder in my mill has.

Now, you asked that gentleman something that I would like to answer. I want to call your attention to this spinner, that if he had to employ 18 additional boys or girls, he could not do it. I will show you the hardship that would be incurred. He would have to build from six to eight houses. They would have on their hands the older members of those families, to get the 18. That is the only way I could do it. It is not like in a thickly settled country, or a town, a large town. We have to supply our own houses or these operatives own them themselves after being there any length of time. Therefore, that would be at least six additional families. What are you going to do with the older members of those families when you supply the 18 in the mill that would be short, that he would have to take up? Do you catch the idea?

Mr. NOLAN. I catch the idea; but I want you to get through, and I will ask you some questions.

Mr. RUFFIN. I thought that was the proper answer to that.

Now, we come to the mill itself. We buy our cotton. It is brought in there and warehoused, put in our warehouses. We have what is known as the opening room. That is where they open the different bales; and it is carried from there to the picker room, because we have four sets of pickers. The pickers are to open up the cotton, so it will not be lumpy. We have so many hands, men, altogether, to operate that room. That cotton is then put into a lap that weighs from 30 to 40 pounds. That lap is carried to what is known as the cards. A card is a large cylinder and doffer running in contact with each other, and it comes from that lap to the front of the card in the sliver, which falls into a can. That work is all done by men, you might say. Then it is carried to the drawing frame. Six of those ends run into one on the drawing frame and are sealed into a roll. That is done by young men, both by young and older men; none of it, practically, by boys. It is then carried to what we know as a slubber and put on a bobbin. That work is done by men; as a rule, young men. Then we carry it to the intermediate frames. That work is done, as a rule, by young men. Then we carry it to what is known as the fine frame. That work, as a rule, is done by women. The work begins to get very much lighter now. It is then carried to the spinning frame in the spinning room, on which we make the thread. That is done almost entirely by children from 13 to 18. Then it is put into a reel and bobbin, and then carried to the weave room, from which cloth is made.

Now, in our mill I suppose we have out of the 350 to 400 workers about 75 children under 15 years of age. Our law in North Carolina is 13. I do not think, without you are familiar with conditions in the South and the close contact of the help with the management of the mill, that you can appreciate the differences between that section and other sections of the country. Practially all of our help, in fact you can very readily say all, are born North Carolinians, and the management of 95 per cent of our mills are North Carolinians. We are one and the same blood, whether you are treasurer or employee. We have associated together. There is nobody, no living human being that our help, our employees will come to for assistance as quick as they will to the mill managements, and, to save my soul, how anybody can be in favor of breaking up those associations and destroying those associations which have existed for 20 years practically, because we began manufacturing there 20 years ago, I can not understand.

I should be gald to answer any questions, gentlemen, that I can.

Mr. NOLAN. How many houses did you build last year?

Mr. RUFFIN. I did not build any houses last year.

Mr. NOLAN. How many have you built in the last five years?

Mr. RUFFIN. That would be difficult to say. I do not know.

Mr. NOLAN. About how many?

Mr. RUFFIN. I do not think I have built any in five years. I am building some now.

Mr. NOLAN. How many?

Mr. RUFFIN. I am building eight.

Mr. NOLAN. That is to take care of a demand, is it?

Mr. RUFFIN. Yes; because I am increasing my machinery.

Mr. NOLAN. Whenever you have need to increase your force, you have to increase the facilities for them?

Mr. RUFFIN. Certainly.

Mr. NOLAN. You would only be doing the same thing in this other instance, and it is only a question of whether you would have to do it, is it not?

Mr. RUFFIN. No, sir; because you would increase in this instance for help that you need, and you would have on your hands help that you could not work.

Mr. NOLAN. Are there any idle people in your town today?

Mr. RUFFIN. Practically none, sir.

Mr. NOLAN. What becomes of the older people, if they go out? As the young fellow advances, is the young man and the young girl advanced from the spinning room into some other work at higher wages?

Mr. RUFFIN. Not at higher wages. They advance to more congenial work, possibly.

Mr. NOLAN. No higher wages?

Mr. RUFFIN. No, sir; not as a rule.

Mr. NOLAN. What are the highest-paid hands in your mill?

Mr. RUFFIN. We have hands that earn $3 a day, $18 a week.

Mr. NOLAN. What is the percentage of those higher-paid hands?

Mr. RUFFIN. About 10 per cent.

Mr. NOLAN. How many people are employed in your mill?

Mr. RUFFIN. Three hundred and fifty in the spinning mill.

Mr. NOLAN. How many of them are under 16 years of age?

Mr. RUFFIN. I suppose 75.

Mr. NOLAN. And thosee over 16 years of age, as they run along, do they work for the same wages they get in the spinning room as they go along in years up to 18 or 21?

Mr. RUFFIN. They are increased, of course, in wages.

Mr. NOLAN. That is what I was trying to get at a while ago.

Mr. RUFFIN. I did not understand your question.

Mr. NOLAN. Then they do increase as they go along?

Mr. RUFFIN. Certainly.

Mr. NOLAN. What becomes of the older person? How do you take care of them as you go along? You put children into the mill, and those children go up on a higher scale of wages as the capacity of your mill advances, to take care of that surplus.

Mr. RUFFIN. Not necessarily so. They move away to some other mill.

Mr. NOLAN. Then you do have to sort of get rid of your surplus anyway, do you not?

Mr. RUFFIN. They move to other mills.

Mr. NOLAN. There would not be any surplus then?

Mr. RUFFIN. Or move to the farm.

Mr. Nolan. Then you do have that condition to-day?

Mr. Ruffin. What?

Mr. Nolan. All these people move out?

Mr. Ruffin. We have not got a surplus hand in town to-day, sir.

Mr. Nolan. I do not mean you have that condition to-day, but you have it right straight along?

Mr. Ruffin. We practically have not had any surplus, sir, except where we have had very dull times.

Mr. Nolan. You say they are moved out as they are forced out?

Mr. Ruffin. I do not know whether they are forced out.

Mr. Nolan. The proposition I am getting at is that as they go along they are not content, as no other individual in any other walk of life would be content, to work in the spinning room for the same wages as they go along in years.

Mr. Ruffin. The spinning room wages are pretty good wages, sir.

Mr. Nolan. How much? What is the pay?

Mr. Ruffin. From $1.25 to $1.50 per day.

Mr. Nolan. Is $1.25 the lowest wage?

Mr. Ruffin. No; not the lowest.

Mr. Nolan. Is it the average or the high wage?

Mr. Ruffin. $1.50 is the high wage.

Mr. Nolan. As they go along there they become more ambitious, as everybody else does?

Mr. Ruffin. Certainly.

Mr. Nolan. As they grow up in years they become discontented with the same wages?

Mr. Ruffin. Sure.

Mr. Nolan. And if they do not get higher wages in your shop they go to some other place, do they not?

Mr. Ruffin. Oh, yes, they go at times to other cotton mills; yes, sir.

Mr. Nolan. So that you are meeting that condition?

Mr. Ruffin. Yes; but when that family moves we have to move a family in; yes, sir.

Mr. Nolan. In this instance you would have to have a family with a sufficient number of children over 16 years of age, if you had to have them 16, to supplant the family with children under 15, or under 16?

Mr. Ruffin. Yes; I judge we would.

Mr. Nolan. You would only be meeting the same condition then, as far as the children are concerned, as you would be when they moved out?

Mr. Ruffin. You are mistaken about that. We do not have to have any except above 13. If you have to supply an adidtional number of children, and they need work or employment for the older members of the family, you have certainly got them loafing on you.

Mr. Nolan. You attempted to answer the question that I asked the gentleman that was just on the stand that preceded you, about the 18 children that you would have to have at least six houses to take care of.

Mr. Ruffin. I am talking about in case you would have to supply them.

Mr. NOLAN. The fact of the matter is to-day that families, for one reason or another, are leaving your mill and going into other pursuits, and you are taking care of that condition to-day, are you not?

Mr. RUFFIN. Yes; we have to send out and get more help; yes, sir. As you increase your mill, you have to do that.

Mr. NOLAN. That is right; that is only logical?

Mr. RUFFIN. Certainly.

Mr. NOLAN. And the same condition would apply if you had to get rid of 18 children, would it not? You would have to find six families that could work in the place of the families that moved away?

Mr. RUFFIN. The question is what would you do with the excess.

Mr. NOLAN. You are taking care of the excess to-day because they are going out all the time.

Mr. RUFFIN. I am not talking about the excess of children. I am talking about the excess of the older members of the families. The ones that go out take the children with them.

Mr. NOLAN. They find some other place, but you always find somebody to take their place?

Mr. RUFFIN. Yes, sir.

Mr. NOLAN. That is what I am trying to get at.

Mr. KITCHIN. Do any of these girls marry?

Mr. RUFFIN. Oh, yes; a great many of them.

Mr. DENISON. What does that result in? Does the mill suffer by it?

Mr. RUFFIN. Not if we can help it. I have had it to affect me pretty badly.

Mr. DENISON. Do many of them get married?

Mr. RUFFIN. Yes, sir; a great many.

Mr. DENISON. Now, then, when these young girls get married, do they keep on working in the mill, or quit?

Mr. RUFFIN. As a rule, they keep on working in the mill.

Mr. DENISON. Do you think that is a good thing?

Mr. RUFFIN. I have not ever seen any bad effects from it. They are generally very prolific afterwards.

Mr. DENISON. Is that so?

Mr. RUFFIN. Yes, sir; and some of the finest youngsters you ever saw, sir.

Mr. DENISON. Is it your idea, then, that that really contributes to it?

Mr. RUFFIN. I do not think it helps it; I do not think it does it any harm.

Mr. DENISON. Sooner or later they will have to quit?

Mr. RUFFIN. Oh, yes, sir.

Mr. DENISON. When they do have to quit, what do you do?

Mr. RUFFIN. That does not affect you, you know.

Mr. COOPER. May I ask a question, just for a point of information? You have told us of the splendid cooperation of the people in your district, the employers and the employees. And it is very commendable, I am sure, for any district to have that cooperation between employer and employee. But then you say that you could not understand why anyone should try to break up this splendid association. In other words, you seemed to think that if this bill passes it will break up this cooperation and the splendid association. In what way would it do that? Just for a matter of information I would like to know.

Mr. RUFFIN. I will be perfectly candid and I will tell you. It is going to place the mills and the operatives both in a position where neither will earn as much money as they are earning to-day. Probably we as representing the mills can not be the assistance to the operators that we are to-day. When you get in financial straits, anyone or any business, they can not be the assistance to anybody or anyone that they can be otherwise.

Mr. COOPER. Is the gentleman aware that we had that same condition existing in the North, when the women's eight-hour works law was proposed in Ohio? The managers of our large department stores, factories, and mercantile establishments told us the same thing, that that would happen if the law was passed. I can not see where it has changed those conditions. I think that same association and that same kind of relations still exist to-day that did before this eight-hour law was passed. I can not see where it has made any difference. In fact, I think there has been a better association, a better cooperation there between the employer and employee since this eight-hour law has been on our statute books. The working men themselves are better satisfied and so are the working women. Now, I believe you will admit that you can not get good satisfaction out of any employee, you can not get good service out of an employee, unless that employee is perfectly satisfied with the conditions.

Mr. RUFFIN. I agree with you heartily there, sir, and I also answer that in this way: In so many mills in our section if an employee becomes dissatisfied he has no trouble in getting other employment elsewhere, and that very quickly.

Mr. COOPER. Don't you believe that if you keep a boy or a girl between the ages of 13 and 16 in a factory or mercantile establishment that is just a little too long to keep them there in continuous service—10 or 12 hours a day?

Mr. RUFFIN. You gentlemen seem to have the wrong impression about that. There isn't any 12-hour business in North Carolina at all, sir.

Mr. COOPER. We used to do that a long time ago, but those conditions are righting themselves, just as these conditions you are trying to get at right themselves. That is all I care to ask.

(Recess until 2 o'clock.)

AFTER RECESS.

The committee reconvened at 2.15 o'clock p. m.

The CHAIRMAN. Have you testified, Mr. Ruffin?

Mr. RUFFIN. I am about talked out; yes, sir.

Mr. KITCHIN. When the adjournment was taken he had concluded his direct statement, but several members at that time indicated that they wanted to ask him some questions.

Mr. KEATING. I was about to ask you, Mr. Ruffin, from your experience as a manager of a cotton mill, at what age do you believe a boy should be permitted to work in the mill?

Mr. RUFFIN. That depends upon the condition surrounding the boys.

Mr. KEATING. Well, I have in mind the thought of the effect upon the boy physically.

Mr. Ruffin. You mean so far as the physical effect is concerned?

Mr. Keating. Yes.

Mr. Ruffin. Twelve years would not hurt him a particle.

Mr. Keating. Do you feel that he could go to work with safety before he was 12 years old?

Mr. Ruffin. Why, so far as actual damage or injury to him is concerned, yes.

Mr. Keating. Do you think he could go to work at 10 years without damaging him physically?

Mr. Ruffin. To be candid with you about that, I do not think it would hurt him.

Mr. Keating. At 10 years?

Mr. Ruffin. Yes, sir. I do not think it would do him any benefit and it would do the mill a great deal of harm.

Mr. Keating. But so far as the boy is concerned you are quite confident that it would not hurt him?

Mr. Ruffin. With the light work and the rest that he has and, over and over again, not much work at all, I do not think it would hurt him.

Mr. Keating. Now, how about the girls? Do you entertain the same view concerning girls as boys?

Mr. Ruffin. My observation has been that girls grow to be as stout women working at 12 years of age as they do at 13 or 14.

Mr. Keating. So that you are quite clear that no physical damage would be done by putting them in the mills at 12?

Mr. Ruffin. Yes, sir.

Mr. Keating. Are you equally clear on the 10-year limit concerning girls?

Mr. Ruffin. I do not know that that limit has ever been in force.

Mr. Keating. I want to get your views.

Mr. Ruffin. I think you are a little misleading there, because nobody that I know of has worked them at 10 years of age. I know that I have not.

Mr. Keating. But you just stated that so far as boys are concerned 10 years would not hurt them?

Mr. Ruffin. Yes, sir. I furthermore think that it is far better for them to be in the mills than to be out loafing.

Mr. Keating. There are a great many boys in North Carolina between the ages of 10 and 16 who are not working in the mills?

Mr. Ruffin. I do not think there are any boys 10 years of age working at all. In fact, I feel perfectly confident there are none under 13.

Mr. Keating. Then between 12 and 16?

Mr. Ruffin. I do not think there are any.

Mr. Keating. Between 13 and 16?

Mr. Ruffin. A great many.

Mr. Keating. A great many between 13 and 16 are not working in the mills?

Mr. Ruffin. Absolutely.

Mr. Keating. You wish to leave the impression on the minds of this committee that those who are not working are loafing on the streets?

Mr. **Ruffin**. Except when they are at school. That is the point that I did not bring out this morning. I would like to emphasize that right now if you will pardon me, please.

Mr. **Keating**. Yes, sir.

Mr. **Ruffin**. The mills, as a rule, have a school, or rather they supplement the funds of the school and have a school session from eight to nine months in every year.

Mr. **Keating**. If a boy works in the mills all day——

Mr. **Ruffin** (interposing). Now, that is largely supported by the mills.

Mr. **Keating**. These boys between 14 and 16 who work 11 hours a day in the mills—do they attend these schools?

Mr. **Ruffin**. None of them work 11 hours a day.

Mr. **Keating**. What are your hours?

Mr. **Ruffin**. Sixty hours a week.

Mr. **Keating**. Do you not work 11 hours a day the first five days?

Mr. **Ruffin**. No, sir; we do not.

Mr. **Keating**. Then you do not give your people a half holiday on Saturday?

Mr. **Ruffin**. We give them a one-third or one-fourth holiday.

Mr. **Keating**. How do you divide your 60 hours in the week?

Mr. **Ruffin**. Well, I will have to figure on that in order to tell you exactly. We work 10 hours and 20 minutes a day for five days, about.

Mr. **Keating**. Well, the boy who works in your mill between 13 and 16 for 10 hours and 20 minutes a day, does he attend this school you mention?

Mr. **Ruffin**. No, sir; he does not.

Mr. **Keating**. So that the boy who is in the mill is not affected by these school facilities that you describe?

Mr. **Ruffin**. No, sir; but he has the privilege of going to school.

Mr. **Keating**. But it would, of course, you will agree with me, be a physical impossibility for him to be in the mill 11 hours a day and attend school at the same time?

Mr. **Ruffin**. No, sir; but he could be at school if he wants to.

Mr. **Keating**. But that would involve quitting the mill?

Mr. **Ruffin**. What did you say?

Mr. **Keating**. If he left the mill would he go to school?

Mr. **Ruffin**. Sometimes yes and sometimes no.

Mr. **Keating**. But he would have the opportunity to go to school?

Mr. **Ruffin**. Oh, yes.

Mr. **Keating**. You have ample facilities for the boys in the mills to go to school?

Mr. **Ruffin**. Yes, sir.

Mr. **Keating**. So that if their parents wanted them to go to school they could go?

Mr. **Ruffin**. Yes, sir.

Mr. **Keating**. Now, as to the hours of labor. Do you think it is safe to work children of 13 years in the cotton mills for 10 hours and 20 minutes a day?

Mr. **Ruffin**. Do I think it is safe?

Mr. **Keating**. Yes, sir.

Mr. **Ruffin**. Absolutely.

Mr. Keating. You do not think that that is an unreasonable number of hours to work children?

Mr. Ruffin. No, sir.

Mr. Keating. Would you agree with another witness who went on this morning that a 12-hour day would not be unreasonable for children of 13?

Mr. Ruffin. It has been done.

Mr. Keating. Did you consider it unreasonable?

Mr. Ruffin. I did not do it, because the hours were changed when I went into the mill business.

Mr. Keating. And would you consider a 12-hour day unreasonable for children of 13?

Mr. Ruffin. A child of 13? No; I would not consider it unreasonable.

Mr. Keating. Now, what is the compulsory school age in your State, or in your county?

Mr. Ruffin. We have the same age as it is in the State.

Mr. Keating. And what is that?

Mr. Ruffin. My recollection is that it is from 6 to 12 years, for four months.

Mr. Keating. Is not the compulsory school law of South Carolina 14 years?

Mr. Ruffin. No, I do not think so.

Mr. Keating. There is no special law in your county?

Mr. Ruffin. No, sir.

Mr. Keating. Compelling children to attend school?

Mr. Ruffin. Oh, yes, sir; there is a compulsory law.

Mr. Keating. To attend school until 14?

Mr. Ruffin. Yes, sir.

Mr. Keating. How does it come that you have children working in the mills who are under 13 years of age?

Mr. Ruffin. It has not been enforced.

Mr. Keating. When the law is enforced——

Mr. Ruffin (interposing). We will comply with it.

Mr. Keating. You will comply with it?

Mr. Ruffin. Yes, sir.

Mr. Keating. As I understand it, your mill indulges in a good deal of welfare work?

Mr. Ruffin. No, sir.

Mr. Keating. And spends a considerable sum?

Mr. Ruffin. I have not said that.

Mr. Keating. Then I misunderstood your testimony. Does your mill spend any money for welfare work?

Mr. Ruffin. No specified sum; no specific sum.

Mr. Keating. You would not care about going into that phase of it?

Mr. Ruffin. No, sir.

Mr. Keating. Some of the others have emphasized that fact. I think that is all.

Mr. Sumners. There is one question I would like to ask. The testimony yesterday developed that, according to the opinion of some of these gentlemen, if labor should be limited to 16 years it would necessitate building more houses for the laborers. Now, it occurs to me that probably there was some policy among the mill owners under which it was generally understood that people under 16 years, children around 14 years old, who would be regarded as mill hands, would be expected to work, and that while theoretically the option would be with the parents as to whether boys and girls should go to school, it was kind of understood around the mills that they should go to work.

Mr. RUFFIN. I do not exactly understand your question. What is your question, please, sir?

Mr. SUMNERS. I will try again. A gentleman who represented the mills said yesterday that if this bill is enacted into law it would virtually limit the age to 16 years; that it would not be practicable to work 14 and 16 year old children eight hours a day. Now, they say that if this is done, it will necessitate their increasing the number of houses around the mills, because the labor supply would be cut out. Do you follow me that far?

Mr. RUFFIN. Yes, sir; I am following you. I will see if I can answer your question when you get through.

Mr. KEATING. Then we have gone that far. The point I am trying to get at is this: Is there or is there not a sort of tacit understanding between the mill owners and the heads of the families who occupy these houses that their children under the age of 16 years are to go into the mills, and not into the schools?

Mr. RUFFIN. Absolutely none in the world, sir.

Mr. KEATING. Pardon me just a moment. There is one other question I want to ask.

Mr. NOLAN. Wait a minute. Is he through?

Mr. KEATING. I thought he was through.

Mr. SUMNERS. Yes; I am through.

Mr. KEATING. At yesterday's hearing, Mr. Gossett—I think that was the gentleman's name—submitted certain figures from the census report which showed that some 4,000 boys and girls between 12 and 13 were employed in the cotton mills of your State.

Mr. RUFFIN. No: that is a mistake.

Mr. KITCHIN. That was for South Carolina.

Mr. PATTERSON. I submitted the figures, and they were taken from the census of 1910.

Mr. KEATING. Was that for North Carolina?

Mr. PATTERSON. Yes, sir; for 1910.

Mr. KITCHIN. Mr. Gossett submitted some figures for South Carolina.

Mr. PATTERSON. I gave you some figures showing the total number of children betwen the ages of 10 and 13, as compiled in the year 1910—the children who were working to make their living—and it showed that only 1 out of every 16 children of the total number worked in the cotton mills.

Mr. KEATING. But it did show that 4,000 worked in the cotton mills?

Mr. RUFFIN. Two thousand three hundred and nineteen.

Mr. KEATING. How many boys and girls?

Mr. RUFFIN. These figures show that out of 84,279 employed in gainful occupations only 4,000, or 1 out of 16, were employed in cotton mills. The exact figures are 4,623.

Mr. KEATING. The point I want to make and the question I want to ask of the witness is, Where are these children employed? In none of the testimony submitted have we succeeded in uncovering the employers of the 4,000 children employed under the age of 14 years.

Mr. RUFFIN. That was in 1910.

Mr. KEATING. Is it your impression that all these children under 13 have been taken out of the mills?

Mr. RUFFIN. Yes, sir.

Mr. KEATING. Then we are to understand that there are no children under the age of 13 in the mills today?

Mr. RUFFIN. That is my understanding of it; yes, sir. It certainly is the case at our mill.

Mr. NOLAN. Your company has built a number of houses for its employees?

Mr. RUFFIN. Yes, sir.

Mr. NOLAN. You rent them to the employees?

Mr. RUFFIN. Yes, sir.

Mr. NOLAN. What is the rent?

Mr. RUFFIN. Thirty-five cents a room a week.

Mr. NOLAN. Are there any private property owners in that immediate neighborhood that rent to these employees?

Mr. RUFFIN. Sixty-five of our families own their own homes.

Mr. NOLAN. Are there any private owners of houses there that rent to mill employees outside of your company?

Mr. RUFFIN. Yes, sir.

Mr. KEATING. How many?

Mr. RUFFIN. You mean how many that rent from outsiders?

Mr. NOLAN. Yes.

Mr. RUFFIN. I suppose, just a rough estimate, it would be 15 outside houses.

Mr. NOLAN. Are there any houses there which are vacant, owned by property owners that the mill employees could rent?

Mr. RUFFIN. No, sir.

Mr. NOLAN. Does your company run a store?

Mr. RUFFIN. No, sir.

Mr. NOLAN. There is no company store?

Mr. RUFFIN. No, sir.

Mr. NOLAN. That is all.

The CHAIRMAN. Have you any other witnesses, gentlemen?

Mr. KITCHIN. No, sir; we think we have discovered all the facts in regard to the cotton mills of the South.

The CHAIRMAN. Now, Governor, we are very anxious to hear your argument on the law point involved.

Mr. KITCHIN. We insist that the evidence be concluded before you hear any of the arguments.

The CHAIRMAN. Well, is there any further evidence?

Mr. KITCHIN. We understand that there is to be some evidence on the other side.

Mr. McKELWAY. We have not asked for a hearing on this bill yet. They asked for a hearing. Now, it seems to me that if we want a hearing and it is granted that we ought to be able to conduct our hearing the way in which they have conducted theirs.

The CHAIRMAN. Well, it will be for the committee to determine whether they want to hear from the proponents of the bill. They heard from them once before, completely and fully. Of course, the governor is entitled, if we can procure it for him, to a quorum of the committee.

Mr. NOLAN. That was set for 3 o'clock. We adjourned until 2 o'clock and the governor was to go ahead at 3 o'clock.

The CHAIRMAN. What time is it now?

Mr. NOLAN. Half past 2. If we are going to hear the proponents of the bill, Mr. Rogers from Massachusetts would like to have about five minutes.

Mr. DENNISON. I think we ought to conclude the taking of testimony before we hear from either side. They are wholly different questions. The facts ought to be in before we discuss any legal questions, in my judgment. I think the governor ought to defer his remarks, if we are going to hear from the other side, and if it is not asking too much of the governor, until they have concluded their evidence.

Mr. SUMNERS. I feel that it is only fair for the governor's side to know just what the other side is going to offer in the way of evidence.

The CHAIRMAN. I understood that the governor's argument was to be devoted to legal questions, and in that view of the matter the testimony before the committee would have no relevancy to that statement.

Mr. KITCHIN. That was my intention, but I have since learned that there would be a discussion of the facts. I think Mr Swift said he intended to discuss the bill on its merits.

Mr. SWIFT. No; I did not mean to give you that impression. You asked me if I was going to be a witness, and I said I did not mean to be a witness.

The CHAIRMAN. We have had the fullest discussion of this measure by the proponents of the bill, and those hearings are already in print and have been available.

Mr. KITCHIN. Of course, I was proceeding under the assumption that this was a new committee.

Mr. DENISON. When were these hearings held?

The CHAIRMAN. In the last Congress.

Mr. KITCHIN. I think it would be regular to conclude the evidence before we hear the discussion.

The CHAIRMAN. I am afraid I will have to miss your argument, Governor, which I very much wish to hear, unless we hear it this afternoon, because I have engagements which take me away after today.

Mr. MCKELWAY. I understood Gov. Kitchin to say that he wanted to begin his constitutional argument at 3 o'clock.

Mr. KITCHIN. I intended to begin at that time if I could.

Mr. MCKELWAY. I telegraphed to Mr. Parkinson, of Philadelphia, to come down here, and we have only a few minutes to present any evidence that we want to present, if we want to present it. Personally, at this moment, I think the case ought to go to the jury on their evidence.

Mr. DENISON. Then I take it that you do not care to produce any evidence. Is that right?

Mr. MCKELWAY. I do not know what I will do later on, but at the present I do not think we will.

Mr. KITCHIN. Of course, if you introduce evidence, we may want to rebut something. I do not know what the character of your evidence would be. I submit that the regular thing would be to close the evidence before argument.

Mr. McKELWAY. I do not know whether Mr. Lovejoy will concur in it or not, but Mr. Lovejoy has the laws of the various States compiled here, and they will be filed for the information of the committee, and I would be content to close the evidence with the introduction of that information. It has been printed and studied by these gentlemen. I would like to make an argument on the evidence that has been brought out and then rest the case. Now, I think that is agreeable to Mr. Lovejoy.

Mr. LOVEJOY. I should be very glad to conclude the evidence by submitting a tabulation of the laws of the different States.

The CHAIRMAN. That has not already been submitted?

Mr. LOVEJOY. No, sir; this is new matter.

The CHAIRMAN. I will ask you to file it with the clerk of the committee, and we will print it in the hearings.

Mr. LOVEJOY. Aside from that, I do not want to take any time of the committee.

Mr. ROGERS. Mr. Chairman, I should like to make a statement somewhat of a personal nature, which ought not to exceed five minutes.

Mr. DENISON. I suggest that we hear it now.

The CHAIRMAN. Now, then, we understand that there is no testimony to be introduced in rebuttal. We will hear Mr. Rogers now, after which we will probably have a quorum and we can hear the governor.

Mr. DENISON. Before you begin, Mr. Rogers, I would like to ask Mr. Lovejoy if he has some extra copies of those laws.

Mr. LOVEJOY. I have not got them here, but they are on the way.

STATEMENT OF HON. JOHN JACOB ROGERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS.

Mr. ROGERS. Mr. Chairman, I have asked for these few moments to make something in the nature of a personal statement before the committee, so that my attitude might not be misunderstood on this question. In the Sixty-third Congress I introduced a joint resolution, House joint resolution 298, on the 8th of July, 1914, proposing an amendment to the Constitution of the United States granting to Congress the power to regulate throughout the United States the employment of women and all persons under the age of 21 years. That resolution I should like to have made a part of my statement.

(The joint resolution referred to is as follows:)

[House Joint Resolution 298, Sixty-third Congress, second session.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

"ARTICLE XVIII.

"The Congress shall have power to regulate throughout the United States the employment of women and of persons under the age of twenty-one years."

Mr. ROGERS. In this Congress I took the matter up with a number of men who are most interested, and most unselfishly interested, in a child-labor remedial statute of some kind and asked their advice as to whether it was wise for the good of the cause to seek to push the constitutional amendment or whether it was better for the sake of the cause to confine the activities of Congress to the former Palmer bill, which, I understand, is now known as the Keating bill. The best advice that I could get was that it was wiser for Congress and for the friends of child-labor legislation to stick to the one form instead of perhaps diffusing these energies into two different channels. I think still that a constitutional amendment is probably the better way of reaching this thing, provided it could be equally speedy and equally certain. Of course, we all know that a constitutional amendment is a difficult problem to achieve. It has been done only a few times in a century. We ought to know from experience of the Sixty-third Congress that it ought not to be difficult to get through Congress a statute based on the commerce clause of the Constitution without injuring the Constitution itself. For that reason I have concluded not to reintroduce the constitutional amendment of last year, but to do everything that I in my humble way could do to advance the cause of the Keating bill.

Now, I should like to distribute among the members of the committee here to-day copies of a speech which I made in the Sixty-third Congress in support of my amendment, which I think has a great deal of material in the way of a brief, which may prove to be of some interest and perhaps of some value to the members of the committee in case they get up a new report upon the Keating bill this year. I will ask the clerk, if he will be good enough to do so, to hand a copy to each member of the committee. Just one more thing and I am through, because I have no wish to make a general argument upon a bill which is to me so clearly meritorious as this is. A constituent of mine sent me a letter which he, in company with others, as he apprehends, recently received from the executive committee of the southern cotton manufacturers of Charlotte, S. C. This letter is dated October 20, 1915, and signed on behalf of the executive committee by David S. Clark, secretary and treasurer. It is—I think it is fair to say—an assault upon the Palmer-Owen bill. I will read it to the committee:

CHARLOTTE, N. C., *October 20, 1915.*

GENTLEMEN: The cotton manufacturers of the South are very earnest in their opposition to the Palmer-Owen bill, which was introduced in the last Congress or any similar national legislation.

We inclose a copy of the Palmer-Owen bill and you will note that the main features are as follows:

(1) No one under 14 years of age can work in any factory.

(2) No one between the ages of 14 and 16 years can work more than eight hours per day.

(3) Federal inspection.

Through systematic and continued misrepresentation the National Child Labor Committee has been able to create the impression that living and working conditions in southern cotton mills are extremely bad, whereas, they are about the best of any large industry in this country.

It would be contrary to the Constitution of the United States for Congress to directly legislate the hours of labor or the ages at which persons may be employed, but the Palmer-Owen bill seeks to evade the Constitution through an elastic interpretation of the interstate commerce law and strike at the southern cotton mills in violation of State rights.

Its advocates in Congress seek to place restrictions upon goods coming into New York from North Carolina, but at the same time, through a recent radical reduction in tariff, admit goods made by the pauper labor of Europe and Japan without respect to the conditions under which they were manufactured.

We maintain that the regulation of labor is a matter for each State to settle for itself, because climatic and working conditions are not the same in all sections of the country.

We would like to know the sentiment of the people of your section and especially that of your cotton manufacturers relative to the provisions of this bill. Do they favor the Palmer-Owen bill as a whole, or are they opposed to any of the above provisions? Do they look with favor on Federal inspection?

We desire that you answer frankly and fully, and will treat as confidential what you have to say upon the subject.

Yours, very truly,

EXECUTIVE COMMITTEE OF SOUTHERN COTTON MANUFACTURERS,
DAVID S. CLARK, *Secretary and Treasurer.*

I have no especial comment to make upon that letter except to refer to it as evidence of the fact that there is, among a certain group of cotton manufacturers, an effort, by means of propaganda, to impress their point of view upon cotton manufacturers, and perhaps upon cotton manufacturers generally throughout the different sections of the country.

I thank the committee for its kindness in hearing me.

The CHAIRMAN. We are obliged to you. I believe we have a quorum now, Governor.

STATEMENT OF HON. WILLIAM WALTON KITCHIN, OF RALEIGH, N. C.

Mr. KITCHIN. Mr. Chairman and gentlemen of the committee, Mr. Rogers read a letter which was written by Capt. David Clark, which, I think, is beyond criticism, though I do not know that he meant to criticize it. It showed a lively interest in the Southern Cotton Association to find out what the sentiment was elsewhere. He was evidently seeking, as I am, help in this legislation.

Mr. NOLAN. Might I make a suggestion? The governor failed to give his name.

Mr. KITCHIN. W. W. Kitchin, attorney at law, representing in this matter the executive committee of the Southern Cotton Manufacturers.

The CHAIRMAN. And your home is where?

Mr. KITCHIN. My home is at Raleigh, N. C. Before I get through I want to impress upon you that the gentleman from Massachusetts, Mr. Rogers, had the correct idea, when he desired to regulate labor conditions in the country, in introducing an amendment to the Constitution. He is a lawyer. He probably gave the matter great consideration. He probably reached the conclusion that I have reached—that Congress can not either directly or indirectly regulate labor conditions or hours of labor in any State, except so far as labor in interstate commerce is concerned. Congress has already regulated the hours of labor of those employees who are engaged in interstate commerce. I shall not go over the facts before this committee to show you the unwisdom of this proposed legislation, although I am going to ask you to incidentally consider it. We have already asked you to go South and we insist, gentlemen, that your committee, either the full committee or a subcommittee, go at the expense of the Southern Cotton Manufacturers, to any mills in the South that you may select, and see for yourselves. Take these good ladies with you, and while you are talking to the men and inspecting the mills and machinery, let them talk to the women. You can get more information in that way. You may think it is remarkable that I specify the cotton mills of the South.

I never thought that the cotton mills of the South were the peculiar objects of this bill until this hearing. I find on the fly-leaf of the speech you are going to read, which I never saw until now, in the second paragraph it is said: "Certain States of the South to-day tolerate conditions which out-Herod Herod." I imagine that is the true index of the gentleman's speech. The distinguished author of this bill stated more than once that this bill embodied the Massachusetts law. In the last hearings the report of this committee and two of the legal arguments emphasized the necessity of passing this law and equalizing competition, taking the bold position that States that work children contrary to the provisions of this bill had an advantage over other States, and, in effect, calling upon the strong arm of the Federal Government to make conditions in the South so that they can not make goods so cheaply. I am not quoting the language exactly, but that is the substance of it. I will not take the time of the committee to read from the report. Gentlemen, you can not equalize conditions of production by law. You can not equalize freights, climate, and distance. You should not attempt it. You can not equalize the vigor and strength of a young man in his prime with that of an old man. It would be desirable to have conditions which would compel people to pay more to a man with a family than to a bachelor with nobody dependent upon him. It may be desirable to have a six-hour law. It may be desirable not to permit any product of labor except by organized labor to have the privileges of interstate commerce. It may be desirable not to have the products of women in interstate commerce. Shall we try to acomplish these things through Congress? It is desirable to have the children of the United States educated through some grade—the 5th, 7th, or 10th grades, as we understand it in our schools. Would this committee think that it had the power to forbid the transportation into any other State of the products of laborers who were not so educated? This bill, if enacted, would be a proper precedent for all these matters.

Now, gentlemen, we have shown you what the conditions in the southern cotton mills are. We have brought you a number of men, men of high character and standing in every sense of the word, who have told you the truth as they understand it. It can not be disputed that the cotton-mill labor in the spinning room, where the children work, is the lightest labor that children do in this country. They work under favorable conditions. The evidence shows you beyond a doubt that it is necessary for some children to work. They work on the farms. They work before they come to the mills. If you drive them out of the mills they have to work elsewhere. I never see a woman or a child work that I do not feel that it is wrong, and I believe that nothing but necessity will justify their working.

Now, gentlemen, do not be confused when your experts cross-examine witnesses and get them confused by questions that none of you could answer. A gentleman will take up a witness and say, "Now, you work some children 16 years old?" "Yes." "Do you think 13 an unreasonable age?" "No." "Do you think 12 is an unreasonable age?" "No." And come on down and the witness says no, no, no. Well, suppose we turn around and ask the other side, "Do you think 14 years is old enough for them to work?" "Yes." "Well, why don't you think 13 is old enough; or, if you think 14 years is too young, why don't you have 15 years?" And where will be your limit? Why, you will have to fix it arbitrarily, just as you do not know just when a pig becomes a hog. If it is strikingly small you know it is not a hog; if he is strikingly large you know he is not a pig. That is just like the age limit. You fix it arbitrarily. The point is that if the children have to work and the conditions are favorable, the work in the cotton mills is the best work for them to do. The remuneration is better than elsewhere, and sanitation and ventilation is good.

I believe in putting up the minimum of child labor. I would not say that I believe in making a woman or a child under 21 work over six hours a day, unless it was necessary, but I do argue this: That if it is right, as under this bill it would be, for a boy to work 8 hours a day when is under 16 in some industries he could very easily, safely, and healthfully work 10 hours a day in the cotton mills, in the spinning room, on account of the character of the work and his environment. If a boy must work you must take into consideration the environment of that work, the heaviness of that work, the intensity of it, and all other conditions.

THE UNCONSTITUTIONALITY OF THE BILL.

Gentlemen, let us see now whether you have the constitutional power to pass this bill. You are depending upon the doubtful proposition that it is constitutional under the interstate-commerce clause. The interstate-commerce clause gives Congress the power to regulate commerce with foreign nations and among the several States and with the Indian tribes. We contend that that does not give the power to exclude from interstate commerce any article that is in itself sound, healthy, not immoral and that can do no possible injury in the State into which it goes, and we state without fear of any contradiction that the Supreme Court of the United States has never sustained any case which prohibited an article of that character from interstate commerce.

Now, gentlemen, the words "sound and healthy," "not immoral," and "not injurious" are used with knowledge of the lottery cases, the white-slave case, the pure-food and drug act, etc. If a thing is deceitful, if it is misbranded, if it is adulterated, if it is immoral in itself or will produce immorality or damage in the State into which it goes, it can be barred from interstate commerce. In addition to that class of cases, the only other class that the court has sustained is that class of cases where the article prohibited is injurious to other interstate commerce or the instrumentalities of the traffic—like loose hay. But, you may ask, haven't the courts held that the power over interstate commerce is just as unlimited as the power over foreign commerce and with Indian tribes? In my judgment, no. The power of Congress over foreign commerce is absolute and unlimited and is the same with the Indian tribes. No man doubts that Congress can forbid constitutionally the importation into this country of sound wheat from Argentina if it saw fit to do it and no treaty forbids, and no man dares to think that Congress can forbid the importation into North Carolina from South Dakota of sound wheat. You can deport a foreigner, but you can not deport an American citizen. You can forbid the going into another State of impure drugs. Can you forbid the going into another State of pure drugs? You can forbid securing transportation into another State of a woman for immoral purposes. Has the Congress the power to forbid any upright citizen securing transportation of a virtuous woman to another State?

The preamble of the Constitution says that one of the purposes of organizing this Government was to secure liberty for ourselves and our posterity. Securing that liberty did not mean obtaining it, as I contend. The States had it then, but it was to secure it, to make it firm, and undoubted for the future. As I proceed you will, I trust, discover that a law of this character will infringe upon that liberty which the Constitution intended to secure. When the Constitution says that life, liberty, and property of the citizen shall not be taken from him without due process of law it means that Congress itself can not do it and the States can not do it. If a man has property there is no power in this Republic that can deprive him of it without due process of law, and an act of Congress such as the bill proposed is not due process of law.

The distinguished chairman of this committee, in his report, made a statement with which I thoroughly concur. He said, in substance, that it is from the Federal Constitution that we derive our right to interstate commerce except in deleterious substances. That is sound. Except I would say instead of from the Constitution we derive our rights to interstate commerce, it is rather by the Constitution our rights in interstate commerce are guaranteed. It does guarantee them, because we had the right to engage in interstate commerce before the constitution was formed. It is one of the rights akin to the right to the product of your own labor. No law gave it to you. The God that endowed you with intelligence and gave you the muscle gave you the right to exercise it in all just and lawful ways.

The CHAIRMAN. Will you pardon this suggestion? The Constitution conferred a much higher right of interstate commerce than existed before, did it not?

Mr. KITCHIN. I am coming to that. You are right in that. Now, it is one of these rights to own property and to dispose of it, to buy and sell, and travel—go from one State to another. It was a right which every American had before the Constitution, and that right was guaranteed by the Constitution when it said they could not take life, liberty, or property without due process of law.

The CHAIRMAN. Do you not think the right was a very deficient one when each State could impose tariff restrictions and embargoes?

Mr. KITCHIN. I understand that. And that was the great reason the Constitution was formed—to forbid shutting the goods of any State up within its borders.

It was for the purpose of preventing restraints by States upon the free transportation of goods from one State to another. If Virginia or North Carolina had a right to forbid goods from another

State coming in, and they did have it, that great right the States surrendered.

You search in vain, Mr. Chairman, with all due respect, to find one single instance in all our country's history, State or national, where a law has ever been sustained that undertook to prevent a sound and healthful product from transportation into another State.

Gentlemen, I want to read you a clause from a last national platform:

> We denounce as usurpation the efforts of our opponents to deprive the States of any of the rights reserved to them, and to enlarge and magnify by indirection the power of the Federal Government.

The arguments made before this committee last time were these: They said, "Look here. Here stands the Government with its arms everywhere. They held in the lottery case that the Government could stand here and look forward and see that that lottery ticket was doing damage in the State to which it goes and therefore, the Government can say it can not cross the border. Why? Because it does damage over there. Impure foods and drugs can not cross the line. Why? They will do damage over there. Misbranded goods shall not go over there, sailing under false flag. The white-slave case, can't take her over because injurious to public morals over there." They argued with plausibility that if you can exclude these things because they are going to do damage in the States into which they are carried, Congress has just as much right to look backward and see if goods are made under conditions that do not meet the approval of Congress; and if so, stop them.

That argument is unsound because Congress has no jurisdiction over manufacturing. In the case of United States *v.* Knight (156–1), and Kidd *v.* Pearson (128 U. S., 21), the Supreme Court holds conclusively that Congress has no jurisdiction over manufacturing in the States. Congress has jurisdiction over interstate commerce. Commerce does not begin until manufacture is complete. Articles can not be considered in interstate commerce until they start on their journey to another State. (Coe *v.* Errol, 116 U. S., 517.) Manufacturing is often essential to commerce but it is not part of commerce.

In the case of the D. L. & W. R. R. *v.* Yurkonis (238 U. S., 439), it was held that one mining coal to be used in interstate commerce was not engaged in interstate commerce.

Congress can only exercise jurisdiction over articles after they become a part of interstate commerce and any effort to in any way control them or their production prior to that time is just as unconstitutional as would be efforts to control their distribution after they had been delivered to the consignee and the original packages broken. No lawyer will contend that Congress has the right to exercise a jurisdiction over articles in such a case. Therefore it follows that Congress, under the commerce clause, can not constitutionally look backward into the conditions of manufacture and say whether or not those conditions meet its approval. The rightful authority of Congress is limited to the quality and condition of the article when it first becomes a part of the interstate commerce. It can ascertain at that time whether it is spurious, or adulterated, or impure, or immoral, or is to be used to the injury of the health or morals of the State into which it is to be shipped, and if so, it can forbid its transportation in interstate commerce.

I stated that Congress did not have the same power over interstate commerce as over foreign commerce. The only limitations upon foreign commerce is section 9 of Article I, which forbids Congress from prohibiting the migration or importation of such persons as any of the States might think proper to admit until the year 1808, and such as may be involved in treaties; otherwise, from the beginning the power over foreign commerce was unlimited and such as fundamentally inheres in the sovereignty of every nation. A citizen or subject of no country can engage in foreign commerce except subject to the will of his sovereign. His right to trade with other countries has that limitation.

The power of Congress over interstate commerce may have been unlimited at the existence of the original Constitution, but upon the adoption of the first 10 amendments thereto that power was no longer unlimited. The tenth amendment reserved to the States and to the people all powers not delegated to the United States nor prohibited to the States. Among the rights reserved to the States are: The right to regulate its own internal policy, its labor laws, its educational system, and the entire body of its police power. This reservation is of very great importance in the consideration of the pending bill.

But the clause which stamps unconstitutionality on this measure, in our opinion, is that contained in the fifth amendment which declares that "No person shall be deprived of life, liberty, or property without due process of law." There is no power delegated to Congress in the Constitution which can rightfully be used to destroy any of the reserved rights of the State or any of the guaranteed rights of the people, provided for in any of the amendments. The 10 amendments are, and were intended to be, limitations upon the original instrument.

The right which each State had before the Constitution to exclude any products of another State which it saw fit from its borders, does not now exist, either in the States or in the Federal Government. The States by the Constitution yielded to the Federal Government all the power that they had, and in the same instrument guaranteed the preservation of the rights of citizens to "life, liberty, and property." So far as interstate commerce is concerned, the citizens have the same rights to travel from one part of the country to another, and to buy and sell and transport honest and wholesome merchandise that a citizen has within his own State. His rights are sacred under the Constitution. He can not, of course use any of his rights in interstate commerce to the corruption or injury of others. The power to do this is not a right. There never was a right in any one to ship diseased cattle, or fraudulent goods, or other articles of evil. No such wrong was guaranteed.

Gentlemen, prior to 1861 we had some great lawyers who wanted to abolish slavery, and I wish they could have done it without having to fight it out. Lincoln was a lawyer; Webster was a lawyer. This clause of interstate commerce had been discussed in great opinions. I ask you if the fact that none of these statesmen undertook to limit the evils of slave labor by denying interstate commerce facilities to its products does not make you doubt if Congress has the rightful power to exclude a sound article that is not misbranded from interstate commerce?

The CHAIRMAN. May I ask you, perhaps you have looked into the debates connected with the Missouri compromise. Was that predicated on the interstate-commerce clause?

Mr. KITCHIN. I have not looked at those debates for some years.

The CHAIRMAN. Of course, it obviously might have been, although it was subsequently nullified.

Mr. KITCHIN. I know there was a great controversy on the question whether a man who moved into the territory could carry his slaves with him.

The CHAIRMAN. That was the Missouri compromise act. Congress then did pass legislation restricting the right of movement of slave property from one State to another.

Mr. KITCHIN. That controversy did not involve the commerce clause we are now considering. But the fact that none of those statesmen ever urged this mild way of limiting the evils of slave labor by forbidding the exports of its products to other States is a circumstance indicating that they did not think such power existed. Can you think the Union would have been formed if the Southern States had thought the power to exclude their products from interstate commerce existed in the Constitution?

In the case of Collins *v.* New Hampshire (171 U. S., 33), the court uses this language:

> The direct and necessary result of a statute must be taken into consideration in deciding as to its validity, even if that result is not in so many words either enacted or distinctly provided for.

We have heard two days' discussion here and we have heard Members examine witnesses. The purpose of this bill is to stop children under 14 from working in certain industries in the States and to stop children up to 16 working more than eight hours a day. No man can doubt that. Now, if that is the purpose, that purpose is unconstitutional, because the Congress has no power to regulate the hours or conditions of labor in the States. In the Fifty-ninth Congress, second session, Mr. Tawney, the chairman of the Appropriations Committee in the House, had the House to pass the following resolution:

> *Resolved*, That the Judiciary Committee be, and is hereby, directed to immediately investigate and report to the House at this session the extent of the jurisdiction and authority of Congress on the subject of woman and child labor, and to what extent and by what means Congress has authority to suppress abuses of such labor or to ameliorate conditions surrounding the employment of such laborers.

On that committee there were able lawyers. That committee through its chairman, Judge Jenkins, on February 6, 1907, presented a unanimous report. It was a long and well-considered report. Its concluding paragraph reads as follows:

> The committee is of the opinion that Congress has no jurisdiction or authority over the subject of woman and child labor, and has no authority to suppress any abuses of such labor or ameliorate conditions surrounding the employment of such laborers.

My observation in life is that men with big hearts and big minds recognize the principle that where you can not do anything directly it is not right to undertake to do it by indirection.

Will this bill deprive one of his liberty or right of property?

Let me illustrate. A man in Charlotte makes cotton goods. A wholesaler in Raleigh buys $1,000 worth of those cotton goods. The wholesaler has those cotton goods in his possession. They are his property. They are all right in themselves and can do nobody any harm. He can not be deprived of his property as this bill will do. I read from a very respectable court, the Supreme Court of the State of New York:

> The citizen can not be deprived of his property without due process of law. Any law which annihilates its value, restricts its use, or takes away any of its essential attributes comes within the purview of this limitation on its power. (People *v.* Hawkins, 157 N. Y.)

That is common sense. In other words, if I have a horse, and the law should say I shall not use that horse, his value would be destroyed. If I have goods and you will not let me sell them, the value is destroyed. If I have goods and you will not let me send them out of the State you restrict the use, you destroy the value. It is the taking of property without due process of law. I have stated that the power of Congress over commerce between the States is unlimited except where otherwise restricted by constitution. The last expression of this was the opinion in Adams Express Co. *v.* Kentucky (238 U. S., 197) on the Webb-Kenyon Act, which forbade the shipment of whisky into any dry territory for the purpose of violating the law of that State. They held that if a company shipped whisky into a State for a man's individual use, when that use was not violative of law, that the company was free from any offense, as the act did not include such a case. The lawyers on the Judiciary Committee, led by Mr. Webb, of North Carolina, an able lawyer, limited that act to making the shipment unlawful where the liquor is to be used unlawfully. That is as far as they went.

In that case Mr. Justice Day says:

> This power (interstate commerce) is comprehensive and subject to no limitations except such as are found in the Constitution itself.

Other decisions have similar expressions that this power is unlimited except where it is otherwise restrained by the Constitution. There are no such restraints, there are no such limitations in the Constitution in regard to foreign commerce or commerce with the Indians.

The opinion in Adams Express *v.* Kentucky quotes this with approval from the case of Commissioners *v.* Campbell (133 Ky., 50):

> The bill of rights which declared that among the unalienable rights possessed by citizens is that of seeking and pursuing their safety and happiness, and that the absolute and arbitrary power over the lives, liberty, and property of freemen exists nowhere in the republic, not even in the largest majority, would be but an empty sound if the legislature could prohibit the citizen the right of owning and drinking liquor, when in so doing he did not offend the laws of decency by being intoxicated in public.

In Gibbons *v.* Ogden (9 Wheaton, 1–194), in discussing this very power, the court says:

> This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than as prescribed in the Constitution.

Gentlemen, that great decision held that that power was complete except where otherwise limited in the Constitution, just as the last case on the subject that was decided last year.

Now let me emphasize my former contention that the true rule is that if any article be good, sound, and free from fraud or adulteration when it leaves the manufacturer and when it enters commerce, Congress can not forbid it interstate-commerce privileges. These pure articles are distinguished from other articles which Congress can control because they are deleterious in themselves.

Wilson *v.* The United States (232 U. S., 567) says that the white-slave act has the quality of a police regulation, although enacted under the power to regulate commerce. Police regulations, if such they be, in interstate commerce are to keep the channels of trade pure. It will not let anything pass over the border that is impure, unsound, harmful, false, or immoral. Congress has the power to pass laws keeping out those things. If it be a police power, it is limited to interstate commerce and can not apply to manufacture.

> That body (Congress) has the right not only to pass laws which shall regulate legitimate commerce among the States and with foreign nations, but has full power to keep the channels of such commerce free from the transportation of illicit and harmful articles, to make such as are injurious to the public health outlaws of such commerce, and to bar them from the facilities and privileges thereof. (McDermott *v.* Wisconsin, 228 U. S., 128.)

What kind are you going to make outlaw? Sound and perfect goods made by women and children? No; you make outlaws of commerce such as are injurious to the public health, when transported to another State.

> The general rules to be deduced from the decisions of the courts is that a lawful article of commerce can not be wholly excluded from importation into a State from another State in which it was manufactured or grown. (Schollenberger *v.* Pennsylvania, 171 U. S., 12.)

And again it says:

> The bad article may be prohibited, but not the pure and healthy one.

That case involved the validity of a State statute.

Mr. SUMNERS. In that construction had the State undertaken to interfere with the importation of articles from another State?

Mr. KITCHIN. Yes, sir; it was an oleomargarine case.

In Hoke *v.* The United States, which is a white-slave case (227 U. S., 308), the court, through Mr. Justice McKenna, said:

> The contentions (that is, against the white-slave act) confound things important to be distinguished. It urges a right to be exercised in morality to sustain a right to be exercised in immorality. * * *
>
> It is the right given for beneficial exercise which is attempted to be perverted to and justify baneful exercise as in the instance stated. * * *
>
> Let an article be debased by adulteration, let it be misrepresented by false branding, and Congress may exercise its prohibitive power.

Isn't that a clear intimation that there must be something wrong with the article before Congress can prohibit it? Let it be misbranded, or adulterated, or let it mislead and deceive, or corrupt and injure the morals or health of the people at its destination and Congress can prohibit it going across the State line. Why have the courts in all these cases, from the Lottery case down, given reasons showing that the article is wrong, and commits damage, immorality, and injury? Why should the Supreme Court show those things in every case, when, if the power is arbitrary, as Senator

Beveridge argued in the Senate a few years ago, it could just say that Congress has the arbitrary power, and you can not question it? Do you think Congress has a power under this clause that the courts can not question? If the power is arbitrary, the courts can not question it. If it is the same as it has over foreign commerce, subject to treaties, the courts can not question it.

Judson on Interstate Commerce (pp. 106–107) has the view that Congress can prohibit in interstate commerce a specific of traffic that is deemed injurious and dangerous to the public health or morals. To the same effect is Ruling Case Law, volume 5, page 811.

Again, in all these cases the prohibited articles have a bad effect at the end of their journey, and the court says that Congress can say that such deleterious articles shall not use the instrumentalities of interstate commerce. Cotton goods are not deleterious or injurious in themselves, but when made by women or children are just as sound, just as sanitary, just as valuable, just as harmless as goods made by 30-year-old men. Congress can rid the channel of interstate commerce of diseased cattle, misbranded goods, adulterated goods—they are bad. You look at cotton goods, put the microscope on it, put the yardstick and pound measure on it, and test it in every known way, and you find it pure. The Congress can not prohibit it, because it can do no harm where it goes, without violating its owner's guaranteed rights.

Now, Mr. Chairman, I wish to cite some authorities upon this particular legal proposition.

Ex-President William H. Taft, in his book on Popular Government, which contains his Yale lectures, said (pp. 142, 143):

> Bills have been urged upon Congress to forbid interstate commerce in goods made by child labor. Such proposed legislation has failed chiefly because it was thought beyond the Federal power. The distinction between the power exercised in enacting the pure-food bill and that which would have been necessary in the case of the child-labor bill is that Congress in the former is only preventing interstate commerce from being a vehicle for conveyance of something which would be injurious to people at its destination, and it might properly decline to permit the use of interstate commerce for that detrimental result. In the latter case Congress would be using its regulative power of interstate commerce not to effect any result of interstate commerce. Aricles made by child labor are presumably as good and useful as articles made by adults. The proposed law is to be enforced to discourage the making of articles by child labor in the State from which the articles were shipped. In other words, it seeks indirectly and by duress to compel the States to pass a certain kind of legislation that is completely within their discretion to enact or not. Child labor in the State of the shipment has no legitimate or germane relation to the interstate commerce of which the goods thus made are to form a part, to its character or to its effect. Such an attempt of Congress to use its power of regulating such commerce to suppress the use of child labor in the State of shipment would be a clear usurpation of that State's rights.

Mr. NOLAN. May I ask a question right here? President Taft vetoed the Webb-Kenyon bill on the ground it was unconstitutional, didn't he?

Mr. KITCHIN. I do not know. Perhaps he did. If you state it, it is true.

Mr. NOLAN. It was passed over his veto. That is the very bill which was sustained by the Supreme Court of the United States, in part.

Mr. KITCHIN. You may be correct about it, but is there a statement there which is not literally true, unless it be the one in which he says "the proposed law seeks indirectly by duress to compel the

States to pass a certain kind of legislation"? It may be argued it does not seek to compel the States to pass it, but it just compels manufacturers without any State law. I will state that, however that may be, the Supreme Court decision does not conflict with what he states.

Mr. NOLAN. I think he vetoed the Webb-Kenyon bill on the ground that it was unconstitutional, and in part it has been sustained by a legal decision of the Supreme Court that you quoted a few minutes ago.

Mr. KITCHIN. It has been. The decision was that the act did not apply to the facts in that case. If he was wrong upon that particular matter, it would not show he is wrong in his book, but it would perhaps weaken his authority on that.

Mr. NOLAN. That is the point I made. You are using the former President as a high authority, and in one instance the Supreme Court decision in at least a portion of the act his reasoning was not held to be sound.

Mr. KITCHIN. But the reasons given do not conflict with President Taft's. He says "if it is deleterious." The Supreme Court says that act only prohibits whisky being shipped into a State to be used to violate the laws of that State, and in the case cited the whisky was not for that purpose.

Now, gentlemen, here is the fullest discussion I have found upon this particular question. It is Watson on the Constitution, published in 1910. In volume 1, beginning at page 524:

ARTICLES MADE BY WOMEN AND CHILDREN, AND TRANSPORTATION THEREOF.

Closely akin to the question of regulating manufacturing is the question whether Congress can forbid the hauling of a commodity, by a carrier of interstate commerce, which was manufactured in a State, for instance, by women or children under a certain age, as has been recently maintained. This question is of far-reaching effect, and if such power exists in Congress it would result in the most complete invasion of the sovereignty of the States by the General Government, which has ever been accomplished under the Federal Constitution. Going back to Kidd *v.* Pearson (supra, p. 522), we find Mr. Justice Lamar using this language: "The line which separates the province of Federal authority over the regulation of commerce from the powers reserved to the States has engaged the attention of this court in a great number and variety of cases. The decisions in these cases, though they do not in a single instance assume to trace that line throughout its entire extent, or to state any rule further than to locate the line in each particular case as it arises, have almost uniformly adhered to the fundamental principles which Chief Justice Marshall, in the case of Gibbons *v.* Ogden (9 Wheaton, 1), laid down as to the nature and extent of the grant of power to Congress on this subject, and also of the limitations, express and implied, which it imposes upon State legislation with regard to taxation, to the control of domestic commerce, and to all persons and things within its limits of purely internal concern.

"According to the theory of that great opinion the supreme authority in this country is divided between the Government of the United States, whose action extends over the whole Union but which possesses only certain powers enumerated in its written Constitution, and the separate governments of the several States, which retain all power not delegated to the Union. The power expressly conferred upon Congress to regulate commerce is absolute and complete in itself, with no limitations other than are prescribed in the Constitution; is to a certain extent exclusively vested in Congress, so far free from State action; is coextensive with the subject on which it acts, and can not stop at the external boundary of a State, but must enter into the interior of every State whenever required by the interests of commerce with foreign nations or among the several States. This power, however, does not comprehend the purely internal domestic commerce of a State which is carried on between man and man within a State or between different parts of the same State."

This opinion was followed by that of Chief Justice Fuller in United States v. Knight Company, where (p. 11), he said: "The fundamental question is whether, conceding that the existence of a monopoly in manufacture is established by the evidence, that monopoly can be directly suppressed under the act of Congress in the mode attempted by this bill.

"The argument is (p. 12) that the power to control the manufacture of refined sugar is a monopoly over a necessary of life, to the enjoyment of which by a large part of the population of the United States interstate commerce is indispensible, and that therefore the General Government, in the exercise of the power to regulate commerce, may repress such monopoly directly and set aside the instruments which have created it. But this argument can not be confined to necessaries of life merely, and must include all articles of general consumption. Doubtless the power to control the manufacture of a given thing involves in a certain sense the control of its disposition, but this is a secondary and not the primary sense; and although the exercise of that power may result in bringing the operation of commerce into play, it does not control it, and affects it only incidentally and indirectly. Commerce succeeds to manufacture and is not a part of it. The power to regulate commerce is the power to prescribe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. But it may operate in repression of monopoly whenever that comes within the rules by which commerce is governed or whenever the transaction is itself a monopoly of commerce.

"It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however, sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government; and acknowledged evils, however grave and urgent they may appear to be, had better be borne than the risk to be run in the effort to suppress them of more serious consequences by resort to expedients of even doubtful constitutionality."

It will be perceived how far-reaching the proposition is that the power of dealing with a monopoly directly may be exercised by the General Government whenever interstate or international commerce may be ultimately affected. The regulation of commerce applies to the subjects of commerce and not to matters of internal police. Contracts to buy, sell, or exchange goods to be transported among the several States, the transportation and its instrumentalities, and articles bought and sold, or exchanged for the purposes of such transit among the States, or put in the way of transit, may be regulated, but this is because they form part of interstate trade or commerce. The fact that an article is manufactured for export to another State does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article or product passes from the control of the State and belongs to commerce.

And right there, let me say that there is this difference. It reminds me of the power to regulate commerce and the power over mails. The Constitution gives Congress the right to regulate interstate commerce, and, as these judges say, except where otherwise restrained, it is unlimited. Congress gave the United States power to establish post offices and post roads, and the courts have held that Congress, having the power to establish post offices and post roads, can exclude anybody else from doing it, considering that an exclusive Federal matter. There have been cases that have held that Congress can forbid any kind of matter from the mails. That is in the discretion of the Congress, because Congress was the sole creator of the post office.

Reading from Watson on the Constitution:

The question was also fully considered by Mr. Justice Jackson (In re Greene, 52 Fed. Rep., 112, 113) as follows: "Congress may place restrictions and limitations upon the right of corporations created and organized under its authority to acquire, use, and dispose of property. It may also impose such restrictions and limitations upon the citizen in respect to the exercise of a public privilege or franchise conferred by the United States. But Congress certainly has not the power or authority under the commerce clause or any other provision of the Constitution to limit and restrict the right of corporations created by the States, or the citizens of the States, in the acquisition, control, and disposition of property. Neither can Congress regulate or prescribe the price or prices at which such property, or the products thereof, shall be sold by the owner or owners, whether corporations or individuals. It is equally clear that Congress has no jurisdiction over, and can not make criminal, the aims, purposes, and intentions of persons in the acquisition and control of property which the States of their residence or creation sanction and permit. It is not material that such property, or the products thereof, may become the subject of trade or commerce among the several States or with foreign nations. Commerce among the States, within the exclusive regulating power of Congress, 'consists of intercourse and traffic between their citizens, and includes the transportation of persons and property as well as the purchase, sale, and exchange of commodities.

I will not take the trouble to read all of that, gentlemen. It proceeds to discuss where commerce begins and ends. I now read what it says about the lottery:

These opinions have been quoted from at length because they bear directly upon the different phases of the power of Congress in its relation to State manufacturing establishments. In some cases the courts have sustained statutes which prohibited the transportation of certain commodities, notably the early cases involving embargo acts, reported in 7 Cranch, 52 and 100. So from those early decisions down to the decision in the lottery cases, the courts have, from time to time, sustained the validity of legislation which prohibited the doing of certain things, but upon close inspection of the legislation which has been sustained, it will be found that the prohibition was enacted because of some special peculiarity of the commodity; in other words, there seemed to be some particular reason why that particular article should not be transported as an article of interstate commerce. The great case in which the question was most thoroughly considered was the lottery case, where Mr. Justice Harlan, delivering the opinion of the majority of the court, said (p. 358): "That regulation may sometimes appropriately assume the form of prohibition is illustrated by the case of diseased cattle transported from one State to another. Such cattle may have, notwithstanding their condition, a value in money for some purposes, and yet it can not be doubted that Congress, under its power to regulate commerce, may either provide for their being inspected before transportation begins or in its discretion may prohibit them being transported from one State to another." Mr. Justice Harlan also said in the course of his opinion (p. 356): "What provision in the Constitution can be regarded as limiting the exercise of the power granted? What clause can be cited which, in any degree, countenances the suggestion that one may, of right, carry or cause to be carried from one State to another that which will harm the public morals? We can not think of any clause of that instrument that could possibly be invoked by those who assert their right to send lottery tickets from State to State except the one providing that no person shall be deprived of his liberty without due process of law. We have said that the liberty protected by the Constitution embraces the right to be free in the enjoyment of one's faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts that may be proper." (Allgeyer *v.* Louisiana, 165 U. S., 578, 589.) But surely it will not be said to be a part of anyone's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the States an element that will be confessedly injurious to the public morals.

Mr. London. At this point I assume that you consider the pure food and drug act constitutional?

Mr. Kitchin. Yes, sir.

Mr. London. On the theory that the National Legislature has a right to declare a certain national code of morality for the guidance of the commercial world?

Mr. Kitchin. On the ground of their impurities and misbranding.

Mr. LONDON. Exactly, and declare a certain code of morality for the guidance of the world.

Mr. KITCHIN. That is a code of morality that is universal. Congress does not establish the morality.

Mr. LONDON. Exactly. Now, assume that the present Congress looks upon child labor as immoral. Have we a right to invoke the power?

Mr. KITCHIN. You would have a right to, if you take that view, provided the children are engaged in interstate commerce.

Mr. LONDON. We would have that right?

Mr. KITCHIN. You would have that right. You would not have the right to go down into any State and forbid the working of children in that State.

Mr. LONDON. But this law seeks to forbid the import.

Mr. KITCHIN. That is a point I have been arguing. You would have to convince the courts that the goods themselves were impure, immoral, harmful, or injurious.

Mr. LONDON. Don't we speak of the act of exploiting the child as immoral?

Mr. KITCHIN. That is exactly what you can not do, according to these authorities, in my judgment. If so, where are the limits of the Constitution; I believe you are a lawyer?

Mr. LONDON. I am.

Mr. KITCHEN. Can you then conceive of any limitation on this power? You can not under your theory, and Judge Harlan says there are limitations in that very lottery case. And in this case he said that a man could not be allowed to introduce in the commerce among the States an element that would confessedly be injurious to the public morals:

> It will be observed that the court did not decide that Congress could prohibit generally the transportation of commodities. This it declined to do, but it is claimed—

Continues the decision—

> that if, in order to suppress lotteries carried on through interstate commerce, Congress may exclude lottery tickets from such commerce, that principle leads necessarily to the conclusion that Congress may arbitrarily exclude from commerce among the States any article, commodity, or thing, of whatever kind or nature, or however useful or valuable.

Mr. LONDON. What page are you reading from? I have that textbook.

Mr. KITCHIN. Five hundred and twenty-nine—from the lottery decision. This was the argument:

> That principle leads necessarily to the conclusion that Congress may arbitrarily exclude from commerce among the States any article, commodity, or thing, of whatever kind or nature, or however useful or valuable, which it may choose, no matter with what motive, to declare shall not be carried from one State to another. It will be time enough to consider the constitutionaliy of such legislation when we must do so. The present case does not require the court to declare the full extent of the power that Congress may exercise in the regulation of commerce among the States. We may, however, repeat, in this connection, what the court has heretofore said, that the power of congress to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument.

This is still Judge Harlan:

> It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States. But, as often said, the possible abuse of a power is not an argument against its existence. There is probably no governmental power that may not be exerted to the injury of the public. If what is done by Congress is manifestly in excess of the powers granted to it, then upon the courts will rest the duty of adjudging that its action is neither legal or binding upon the people.

In other words, if that is one of the reserved rights, one of the guaranteed rights, of the people, then the courts will interfere if Congress tries to control it. If not, then the courts will not interfere, and it will depend upon the Congress to take such action as they see fit.

He then states that if action is merely unwise or injurious it is a matter for the people to remedy through Congress.

I read now from page 531:

> Has Congress, under the power to regulate commerce, the power arbitrarily to deprive individuals or commercial agencies of the exercise of a privilege which is necessarily inherent in the right of citizenship and the right of transacting business? The Federal Constitution will enforce rights which the citizens of this country are entitled to have, exercise, and enjoy rather than destroy them. These rights are beyond the Constitution, not subject to it. They were here before our Constitution was framed. The Constitution was framed that the people might better be protected in their rights, not that their rights should be destroyed. This doctrine finds support in the opinion of Chief Justice Waite, in Bowman *v.* Chicago & North Western Railway Company (115 U. S., 611), in which the Chief Justice said (p. 615): "The alleged right of which these plaintiffs have been deprived is one secured to them, if secured at all, not by the Constitution, but by that principle of general law which requires a common carrier of goods for hire, to carry, whenever he is asked to do so, within the general scope of his professional business and for a reasonable reward. It grows out of the duty which, in law, a common carrier owes to the public at large, and is no more secured by the Constitution than are any other of the ordinary transactions of business. The question is not, therefore, whether the plaintiffs have been deprived of a right which the Constitution has secured to them, but whether a right existing without the Constitution has been lawfully taken away."
>
> The commerce clause refutes the idea that Congress can prohibit the transportation of an innocuous article by an interstate carrier. The power to regulate necessarily implies the existence of the thing to be regulated. The word "regulate" does not mean to prohibit.

The courts have held that in some instances regulation may take form of prohibition as in the lottery cases and upon other deleterious subjects.

I read the author's concluding paragraph on the matter:

> There is no power in Congress to control the manufacture of goods in the States destined for interstate or foreign commerce, and consequently Congress is unable to control the labor of persons engaged in manufacturing products in the States which are intended for interstate or foreign business. Such regulations are left to the State. The power to make such regulations resided there before the Constitution was adopted, or the Union was formed, and it was not surrendered by the States to the General Government.

I read from Prof. Willoughby on the Constitution. I noticed in reading the hearings and briefs on the other side it was stated that Prof. Willoughby had in one respect modified his position, and I think that is true. I am going to read you his article for its reasoning, even if he has modified his position.

Mr. London. Is that from his recent book (1910) of two volumes?

Mr. Kitchin. That is the one I am talking about, Willoughby on the Constitution, volume 2, section 348:

> The possible application of the doctrine laid down in the lottery case is excellently exemplified in an attempt that has been made relying upon it to support the constitutionality of a Federal law excluding from interstate commerce articles to the production of which child labor has contributed. The enactment of a bill to the effect has been especially championed in the United States Senate by Mr. Beveridge, of Indiana.

The main difference between that bill and the one you are considering is that that bill wanted to punish the carrier for transporting or receiving the products of child labor, and this one puts the penalty on the manufacturer.

> This proposed law provides that, under heavy penalties, "no carrier of interstate commerce shall transport or accept for transportation the products of any factory or mine in which children under 14 years of age are employed or permitted to work, which products are offered to said interstate carriers by the firm, person, or corporation operating said factory or mine, or any officer or agent or servant thereof, for transportation into any other State or Territory than the one in which said factory or mine is located."
>
> There has been no concealment, and, indeed, the bill bears sufficient evidence upon its face of the fact that the purpose of the law is rather a regulation of the manner in which certain goods are manufactured or produced than of their transportation across State lines.
>
> The bill is thus a police measure in exactly the same sense that the pure food and lottery acts are. But there is a difference between it and them—a difference which possibly will be held controlling. Lottery tickets are, in themselves, the contracts of an undertaking which is very generally regarded as a morally and economically harmful one, and impure foods are, in themselves, harmful to those receiving and consuming them. After the process of manufacture is completed, harm is, therefore, done by the transportation and use of impure foods and lottery tickets, and it is, therefore, arguable that a law prohibiting or regulating their transportation as articles of interstate commerce is a legitimate exercise of the power granted to the General Government to regulate commerce among the States; that is, is an exercise of that power for the advantage of the citizens of the several States.
>
> As to articles manufactured or produced in factories or mines employing children under 14 years of age, however, the foregoing does not hold true. Whatever injury is done by the employment of children in factories or mines is done when the articles are in process of manufacture or production, and over this manufacturing or mining the Federal Government has, under the commerce clause, no control whatever. Except possibly in the rarest instances, goods produced in factories or mines employing children do not differ in character from those produced in factories or mines not employing such labor. Once produced there is, therefore, no harm done to anyone, whether by way of deceit or injury to the health, by the sale and consumption of these goods so produced. There can not, therefore, be any valid argument as to the constitutionality of the proposed child-labor law upon the ground that it is a legitimate exercise of a Federal power to regulate interstate commerce, unless, indeed, one is willing to take the further step of saying that Congress has the arbitrary power to exclude from interstate commerce any commodity that it chooses independently of whether its transmission or transportation is attended by danger, or its sale by unavoidable opportunity for fraud, or its use and consumption followed by moral or physical evils. Or, if admitted to interstate commerce, that Congress may attach, as conditions precedent thereto, any requirements of production that it may see fit to impose. To grant this last—

And that is what you are trying to do here—

> is, of course, to break down entirely the distinction between the manufacture of and the interstate trade in commodities, and thus to bring within possible Federal control the entire manufacturing interests of the country.
>
> It is plain, from what has been said, that the enactment of a measure of the character of the child-labor bill introduced in the Senate by Mr. Beveridge would

be an attempt upon the part of the Federal Government to regulate a matter reserved to the control of the States. Should the measure be limited in its operations to goods imported from foreign countries it would not, to be sure, be open to this objection, but it would still be open to the criticism that it would not be, in any sense, a regulation of commerce and therefore, if valid, the constitutional source of the power of Congress to enact it would have to be sought elsewhere than in the commerce clause.

The cases in which it has been held that the Federal Government has a full discretionary power to exclude articles from the mails can not be used to support, by analogy, a similar power over interstate commerce. For, by the Constitution, Congress is given the exclusive power to establish post offices or post roads. The maintenance of a postal service is thus a subject over which the States have no authority. Interstate commerce is, however, a matter which is not established by the Federal Government. Its regulation, and not its creation, by the Federal Government is provided for by the Constitution. The distinction between the powers of the United States with reference to interstate commerce and those arising out of its power to establish post offices and post roads is recognized in the leading case of In re Jackson in which the court says: "We do not think that Congress possesses the power to prevent the transportation in other ways as merchandise of matter which it excludes from the mails. To give efficiency to its regulations and to prevent rival postal systems it may perhaps prohibit the carriage by others for hire, over postal routes, of articles which legitimately constitute mail matter in the sense in which those laws were used when the Constitution was adopted—consisting of letters and newspapers and pamphlets when not sent as merchandise; but further than this its powers of prohibition can not extend."

Now, gentlemen, you have borne with me very patiently. I have gone over this matter hurriedly and given you the main reasons which we have to present. Now, evidently you are trying to do by indirection what you can not do directly. You have tried to make this bill constitutional. Those who prepared it have evidently given that phase of this matter very great consideration. Now, shall you let down the bars, even if you have the power? Is it wise to let down the bars and let the Federal Government regulate the hours of labor and regulate throughout the country what kind of labor shall be engaged, whether you require men to be educated, or whether you will exclude the products of all labor except organized labor, and if so, which branch of organized labor? Are you going to subject Congress hereafter to thousands of perhaps fruitless efforts to obtain other legislation? Shall you not, in the interests of the common good, leave this matter to the States, which are making progress so rapidly—not perhaps as rapidly as you wish, or as I wish, but they are making rapid progress—when you consider the slow growth of social conditions in any country? Our people think like you do, and would think like you do under your conditions, certainly with the same training and the same environment. There is very little difference between us.

Leave it to the States. Have faith in the States. Those who tell you that a single Southern State is cruel and heartless misrepresent that fair land. Do not thus by indirection so violently encroach upon the rights of the States. Do not put the industries of the country under Federal inspection.

It is true, when you come to the legislature for any reform bill our people, like other folks, take to reforms slowly, and people probably have to knock at the doors of the legislature more than once, but in the good process of time all proper reforms are made. I do not blame the advocates of this bill who appear before you for asking you to favor it, because I know nine out of ten of them, and perhaps all of them, think they will be doing no harm to the constitution, or do not regard it. They should look into the future, when this legislation will be set up as a precedent, if, possibly, the Supreme Court of the United States should sustain it.

The States know better what the conditions are under which the women and children work. What does a Massachusetts man know about conditions in Arizona? If you would apply this child-labor age to all sections of the country and all industries you would create an industrial standstill. I think I do not overstate it when I say one-fourth of the cotton picked in the South is picked by children under 16 years of age. I know a large quantity of it is. If you should deny export of that cotton you would paralyze the country, and the children who work in the mills are in as good condition as people who work on the farms.

We all know how kind your intentions are. If you drive these children out of the mills, they have to go on earning money, they must exist. You do not drive them into the schools. Some of them would probably loaf around. Some of them, of course, would go back to the farms, where they would eke out probably a scanty living, but without the same advantages. You do not get all your education from books—from going to school. So far as intelligence and getting information is concerned, one boy in an ordinary cotton-mill village will learn better how to take care of himself, acquit himself in company, to be a good man and a good citizen, in 12 months than out on some lonely mountain farm in two or three years.

You can not appreciate that. You gentlemen who live in great cities and in thickly populated communities, can not understand the lonesome life that many people in our agricultural communities endure.

I do not think the evil is sufficient to justify the remedy that you are going to apply, even if you have the power. If you were assured that the conditions as you conceive them are incurable, it would make us all hopeless, and we would feel like doing things desperate; but that is not the case.

Mr. SMITH. I would like to ask you a question about prison-made goods. Do you think Congress has a right to legislate as to them?

Mr. KITCHIN. I doubt that exceedingly, and have tried to find something on it.

Mr. SMITH. Have you, in your investigations, found out whether oleomargarine can be prohibited because it is a deleterious article to the health of the people?

Mr. KITCHIN. No. The case (the Schollenburger case) that I read from was an oleomargarine case.

Mr. SMITH. Was that prohibited?

Mr. KITCHIN. No; that involved a State law. It declared that a State law could not put any limitations or require branding or coloring, because it was a sound and healthful product. Congress taxed colored oleomargarine under the taxing power, and that is a different proposition. They taxed it. You do not undertake to exercise this power here.

Mr. SMITH. It was not regulated because it was a deleterious product?

Mr. KITCHIN. No, sir.

Mr. SMITH. It was the branding?

Mr. KITCHIN. It was the branding or deception. The argument was that they were coloring it up and selling it as butter, and while the wholesaler and retailer might know that it was oleomargarine, the consumer did not, and it was sailing under false colors.

Mr. DENISON. I want to ask you this question on this phase of the case, and I would like to have the benefit of your judgment: Disregarding for the purpose of this question and your answer the phase that you have discussed, and conceding that Congress should have the power to enact this legislation in a proper case, do you think the fact that this statute singles out a certain class of industry or a certain class of work—arbitrarily does so—would affect its constitutionality?

Mr. KITCHIN. Personally, I do not think it would. I am guided somewhat by the decisions in my own State, where we permit that to be done.

Mr. DENISON. Well, in Illinois they do not.

Mr. KITCHIN. I was going to add that I am aware that in some States they will not permit you to segregate one class and make it the subject of legislation, and that might be an argument against it, but lawyers from different States get their ideas very much from their own State decisions.

Mr. HOUSTON. I was going to ask you what you think about the constitutionality of an act preventing the shipment of convict-made goods?

Mr. KITCHIN. It has not been passed upon by the Supreme Court, but many of the States—Ohio and New York—have able opinions on that, and the justices of the Supreme Court of the State of Massachusetts in 1912 gave an opinion to the legislature on it, and that opinion of the Massachusetts Supreme Court is that the State has no right to impose any restrictions whatever upon convict-made goods from another State. The decision of the New York court was to the same effect; a very strong decision, as also was the Ohio decision.

Mr. HOUSTON. Would they come under the want of power in the States to regulate interstate commerce?

Mr. KITCHIN. Yes; but the grounds of the statutes were touching manufacture. If the article is sound and pure, in my judgment its interstate transportation could not be prevented.

Mr. HOUSTON. Without reference to the interstate commerce, it would apply to the regulations of manufactures?

Mr. KITCHIN. Yes. And if the article is sound and free from fault, I think it would be unconstitutional to bar it from other States.

Mr. KEATING. Well, Massachusetts has it. Ohio has it, with the provision that they are allowed to make the goods——

Mr. KITCHEN. All of those laws are valid in their own States, as to their own convict products. I want to call your attention to a most striking case, and it is a case of national interest, in which the Supreme Court of the United States would not permit a State to do by indirection what it could not do directly, and it is this Oklahoma suffrage case. I was interested in that case because several Southern States have a similar law.

Mr. COOPER. Can you tell me where I can find it?

Mr. KITCHIN. It is in 238 Supreme Court Reports. There are two cases.

Mr. COOPER. Pardon me for interrupting you again.

Mr. **Kitchin**. That is all right. Oklahoma, in her constitution, has about the same provisions, similar in structure, purpose, and principle as North Carolina and one or two other Southern States. That is in effect this: That the educational qualifications for suffrage—I am not giving the language, but it provides that no man shall register and vote unless he can read and write any section of the Oklahoma constitution. Now, that is an unlimited provision for an educational qualification for suffrage. Then it provides that no man who could vote or who is a lineal descendant of a man who could vote on the 1st of January, 1866, in any State where he then lived, shall be denied the right to vote on account of failure of this educational qualification.

Now, the Federal Constitution says that no man shall be denied the right to vote on account of race, color, or previous condition of servitude. Here is a constitution which says "Well, we will make a general qualification; that is, an educational qualification. Anybody, white or black, that has that educational qualification, shall vote." It says "We will not only do that. We do not deny anybody the right to vote, but we will extend the suffrage to another class, men and the descendants of men who could vote in 1866," and not a word is said about color or race. Do you think that misled the Supreme Court of the United States? No, sir. They said "You must consider that whole constitutional provision," and the sum and substance of it, when you look at it, is to stop many men from voting because they are black. The court declared it void.

You can not regulate the hours of labor in southern cotton mills or northern cotton mills or any other manufacturing plant in this country. You know you can not regulate the working ages of children, and yet you are going to try to do that by indirection, just as Oklahoma and North Carolina and other States tried to do in regard to suffrage.

Mr. **Sumners**. May I ask you a question?

Mr. **Kitchin**. Yes.

Mr. **Sumners**. Has not the Supreme Court gone a long way in permitting Congress to do things indirectly which it could not do directly? Namely, through the exercise of the taxing power?

Mr. **Kitchin**. The taxing power taxed State bank notes out of existence and often foreign goods from importation.

Mr. **Sumners**. In the rendition of those opinions, did the Supreme Court undertake to differentiate between—I think you have got me; go on.

Mr. **Kitchin**. My recollection is that when Congress taxed the State bank notes directly, as it did, 10 per cent, the court said that it would not look back of the act to discuss the motive of Congress. It just took it as it stood, assumed that it was taxing it for revenue purposes, and sustained the power of taxation.

Mr. **Sumners**. This occurred to me in that connection, which in part answers my own question; that is, the court declared that the power to tax carried with it the power to destroy, and it was a power given originally.

Mr. **Kitchin**. That is a different power. In the tax cases I recollect that they put it on the ground that they would not go back of it, the act. In this white-slave case, Hoke *v.* United States, the court says that "motives are made of determining consequence," in the decision of cases of congressional legislation. When you read this bill you do not have to introduce any parol testimony to show that it is for the purpose of regulating labor.

Mr. DENISON. You have to get the motive from the act itself.

Mr. KITCHIN. From the act itself; yes, sir.

The CHAIRMAN. You have been very kind to the gentlemen present. I understand there is a lady who wishes to ask you a question.

Miss MORROW. I would like to ask if you meant it when you asked these ladies to come down and investigate the institutions of the South? We would be very glad to accept your invitation and have our expenses paid, provided we can go in the cotton mills to any place that we want to, and not be led to certain rooms in these mills.

Mr. KITCHIN. May I ask to whom I am talking?

Miss MORROW. Miss Morrow.

Mr. KITCHIN. You certainly can. This was my idea, to have this committee or a subcommittee come and you ladies come with them.

Miss MORROW. We would be very glad to come and make a report to the committee when we get back.

Mr. KITCHIN. You can not give any better report than we can.

Miss MORROW. But we are not directly connected with the mills.

Mr. KITCHIN. We want this committee to get first-hand information, I am sure. If you should come down and investigate, and come right back here and report, we would have to have some one else.

Miss MORROW. But you invited us with the committee.

Mr. KITCHIN. With the committee; yes.

Miss MORROW. And we would be very glad to come down and talk with the ladies down there.

Mr. KITCHIN. I take it that the committee will appoint a subcommittee, if the full committee are not going, and the proposition has been made to take you down to Norfolk and in a private car, from there take you everywhere you want to go.

Mr. PATTERSON. I am very glad that the ladies are so willing to go. I think, by accepting our invitation, the committee will probably go when otherwise they would not have gone, and their expenses will be paid.

STATEMENT OF MR. JAMES A. EMERY, COUNSEL FOR NATIONAL ASSOCIATION OF MANUFACTURERS.

Mr. EMERY. I am counsel for the National Association of Manufacturers, consisting of some 4,000 manufacturers operating in most of the States of the Union and employing in normal times substantially 2,500,000 men.

I realize that when a manufacturer or his representative appears before a committee of this character he is embarrassed by possibly the suspicion or suggestion that, because he is opposed to a particular mode of regulation he is opposed to the subject matter of the regulation. or any regulation of the subject itself whatever. The National Association of Manufacturers has been at no time opposed to the regulation of child labor. It has never appeared in any State, so far as I know, in opposition to or criticism of the radical regulation of child labor. That individual manufacturers might differ on that subject would not be surprising—just as there are differences of opinion among the advocates of such measures, both as to the means and circumstances of such regulation.

But I represent the opposition of manufacturers in this country to the principle of control here invoked, because it seems from an examination of the measure that it proposes to substitute an exercise of police power by Congress for that of the legislatures of the respective States themselves. Nay, more, by the circumstances of interstate commerce in this country it substitutes the views of Congress for those of boards of aldermen and supervisors and county or municipal authorities in the States themselves with respect to the subject matter here involved, and, more than that, creates a precedent permitting "many an error by the same example to creep into the State."

If it be true that Congress under the commerce clause may fix the conditions under which production is to be had in order that a commodity may enjoy the facilities of interstate commerce, then the other circumstances which attach to that plenary and exclusive power of Congress attach to it. If Congress can say that no article shall be transported from State to State into which the labor of a child has entered for more than eight hours in whole or in part, or the labor of a child between certain ages, or the labor of a child who works more than a certain number of hours during a certain number of days in the week, then Congress can attach, possessing plenary and exclusive powers of control on that subject, any other condition that is reasonably related to the control and regulation of such commerce, if that be reasonable regulation and control. It is because of that condition, sir, that this principle of control becomes important to manufacturers.

They have been led to believe that the regulation of production as distinguished from commerce was an attribute of the police power of the State. If it is to be transferred to the Congress of the United States, and regulation of the local conditions of manufacture is to proceed from that body, it will be an exceedingly difficult matter for its members in all the States of the Union to so inform themselves with respect to peculiar conditions characterizing each particular State of the Union that they can regulate production in that State with understanding. The variations of climate, of subjects of production, of custom, and of all economic conditions that differentiate one State of the Union from another will make it necessary for the Members of Congress to be as familiar with all the local conditions of every other State as of their own. I believe, in the first place, that such a proposition is in antagonism with the very fundamental idea of local self-government. You get different courts in which to try your rights. You are taken from local courts to Federal courts. The enforcement of this law of local production is to rest upon Federal authority, and the terms of the measure itself, it seems to me, are extraordinary, not only in the character of the regulation proposed but in the rule of evidence which is offered as prima facie proof of violation of the bill itself.

Let me say first, if I may, parenthetically, that if I discuss this bill from the standpoint of the right of a State to regulate its internal affairs and the right of a citizen of that State to be regulated or controlled by his local government in those matters which are purely domestic I am not asserting an imaginary or obstructive state right, but a very real one that is essential to the maintenance of the integrity of our form of government itself—not in my opinion, but in the opinion of every commentator not only upon the Constitution but upon our peculiar form of government.

In a nation as wide as our own, as greatly populated, with as many different circumstances of climate, there are many variations that God has made and that make the facilities for the production of commodities vary in different States, giving marked superiority to some States for the production of some things. For instance, one State is better qualified for manufactures rather than in agriculture; another is markedly superior for and in agriculture and live-stock raising. Again, you would find quite a difference of opinion if you undertook to lay a tax—assuming the Congress of the United States were regulating such matters—to lay a tax upon bachelorhood, in a mining community of the West made up almost entirely of men and in a New England community made up largely of spinsters whose opportunities for matrimony had been somewhat restricted.

The mere existence of an evil, assuming the existence of one national in its character, does not justify action by Congress to meet that evil, if it does not possess the power to deal with it. One of the misfortunes of our present condition is the lack of uniform marriage and divorce laws. They go to the very fountain of life. Yet the State of South Carolina recognizes no cause for divorce and the State of Nevada recognizes probably 30 causes for divorce. Would Congress impress upon South Carolina the liberal views of the State of Nevada, or upon Nevada the exceedingly strict limitations which prevail in the State of South Carolina?

There is not a possibility of your succeeding in undertaking, in a country as great as ours, to revise regulation that is due to the peculiarity of climate, natural advantages, local tradition and custom, greater population, etc. The laws of those States of the South that are notable for their undiluted American-born population express a condition and viewpoint quite different from those prevailing in States that have been greatly enriched by alien blood. It is equally true that the economic conditions in the Northern States, with large surplus of capital, with railroads, with exceptional opportunities for easily securing cheap raw material, and possessing a large labor supply, are very different from communities just emerging from agricultural into industrial life, with insufficient and inexperienced or untrained labor.

Indeed, as I listened to these gentlemen from the South, I realized they were practically under the necessity of educating their labor before they can lay a foundation for its training in the peculiar business of the cotton mills. I only refer to that as illustrative of the varying conditions that prevail.

I favor uniform legislation upon all subjects that admit of uniformity, but I realize that in this country there are many subjects in which uniform regulation would create injustice and inequality. I can think of no greater injustice than to establish a national wage of, say, $3 a day for all kinds of mechanical labor, because I can think of no injustice equal to equal reward for unequal service, I can think of no uniformity that would be more unjust than that which undertook to level down all of these conditions of inequality which differentiate one community from another and give to some those advantages which God has denited to others.

Now, it has been pointed out again and again by thoughtful men, by Congress in the course of many discussions, that this lack of uniformity is a fact upon which is largely predicated the right and the value of local self government. Men desire regulation by representatives chosen from communities familiar with the conditions to which that regulation is to apply. Because I think it will be accepted as axiomatic that all regulation is good in direct proportion to the information of the legislator with respect to the subject upon which he legislates and the intelligence with which he proceeds to his task.

So we have had in this country of ours a creation peculiar to itself, a dual government, with national authority operating directly upon the citizens of each State and not upon the States themselves. These Commonwealths goverened in their internal affairs by representatives chosen by the people of each particular community; have delegated to the National Government a sweeping jurisdiction over subject matters of national concern, over our political relations with foreign powers, and over our trade with each other from State to State and with foreign nations.

As Gov. Kitchin has so well said, it was the obstructions laid upon that intercolonial commerce by each colony during that period between the conclusion of the Revolution and the adoption of the National Constitution, which John Fiske so aptly characterized as the "critical period of American history," that strongly contributed to make necessary a national union in which the power to regulate commerce would rest in the national authority and not in the individual States themselves. The preservation and limitation of that national authority to subjects of a national character, and of State authority to internal and domestic affairs and to intrastate as distinguished from interstate commerce, has been regarded by all our commentators, our courts, and our statesmen as one of signal and necessary importance.

I read but the other day Mr. Lincoln's statement in his first inaugural, at a time when, if ever, he must have had brought home to him the necessity for great national authority, and he said:

> It is my duty and my oath to maintain inviolate the right of the States to order and control under the Constitution their own affairs by their own judgment exclusively. Such maintenance is essential for a preservation of that balance of power on which our institutions rest.

Senator Edmunds, the real author of the Sherman Act and one of the greatest lawyers we have had in the Senate of the United States, said in debate there:

> I believe that the safety of the Republic as a Nation, one people, one hope, one destiny, depends more largely upon the preservation of what are called the rights of the States than upon any one thing.

Senator Elihu Root, in his Princeton lectures upon the Constitution, delivered last year, declared that—

> If the power of the States were to override the power of the Nation, we should ultimately cease to have a Nation and become only a body of really separate, although confederated, State sovereignties continually forced apart by diverse interests, and ultimately quarreling with one another and separating altogether. On the other hand, if the power of the Nation would override that of the

States and usurp their functions, we should have this vast country, with its great population, inhabiting widely separated regions, differing in climate, in production, in industrial and social interests and ideas, governed in all its local affairs by one all-powerful central government at Washington, imposing upon the home life and behavior of each community the opinions and ideas of propriety of distant majorities. Not only would this be intolerable and alien to the idea of free self-government, but it would be beyond the power of a central government to do directly. Decentralization would be made necessary by the mass of government business to be transacted, and so our separate localities would come to be governed by delegated authorities—by proconsuls authorized from Washington to execute the will of the great majority of the whole people. No one can doubt that this also would lead by its different routes to the separation of our Union. Preservation of our dual system of government, carefully restrained in each of its parts by the limitations of the Constitution, has made possible our growth in local self-government and national power in the past and, so far as we can see, it is essential to the continuance of that government in the future.

Mr. SMITH. Will you permit me to ask you one question about the intershipment between States of prison-made goods?

Mr. EMERY. I will cover that as I come to it, if you will permit me.

Mr. DENISON. Where did Senator Root say that?

Mr. EMERY. These are his Princeton lectures on the Essentials of the Constitution, delivered in 1913.

I understand that some members of this committee are not lawyers, and as Gov. Kitchin has covered in his brief a great many of the legal points at issue, I want to indulge in a somewhat free discussion and subject myself to queries by any member of the committee as I proceed.

With these authoritative views upon maintaining unimpaired the true relations between the States and the Nation as a background, I want to call your attention to the fact that the proposal of regulation involved in this bill will have the effect which I suggested in the beginning, of making Congress a legislature for each State, and indeed a board of aldermen for each municipality, for it is estimated by those who engage in it that 90 per cent of our commodities are disposed of in States other than those in which they are produced. Interstate commerce is the condition of our business being. He who controls the conditions under which interstate commerce is to be carried on is the regulator of national business. There is nothing left to regulate except the conditions under which the commodities for that commerce are produced. Now, what does this bill undertake to do? It undertakes to declare that no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce any commodity which is produced, in whole or in part, by the labor of children working in mills and quarries, under 16 years of age, or in manufacturing establishments or canneries—I think they would be included in that term, but I mention them separately—or who, being under 16 years of age, work more than eight hours in one day or more than six days of eight hours in one calendar week or between the hours of 7 in the morning and 7 at night in any establishment mentioned in the bill.

The administration of this measure is given to a committee consisting of the Attorney General and the Secretaries of Commerce and Labor, who are to make rules and regulations for its enforcement; and for the further purpose of securing its enforcement, the Secretary of Labor is authorized to inspect every establishment subject to the measure in which goods are "prepared for interstate commerce," and every Federal district attorney throughout the country is instructed to begin a prosecution for its violation upon the presentation by any person of satisfactory evidence of its violation.

And what is satisfactory evidence of a violation of this measure? Why, there is a rule of evidence laid down in this bill of rather astonishing character, which was not contained in the measure of last session. Proof of the presence, within 60 days prior to the shipment of such forbidden products, of a child under 16 years of age in any mine or quarry, or of a child under 14 years of age in any mill, cannery, or workshop, or of a child between those ages for more than eight hours, and so on, is "prima facie evidence" of a violation of the act.

Gentlemen, you heard the testimony Monday of a gentleman from Virginia, a very interesting and intelligent man, who described the employment of 6,000 persons in cotton mills at Danville. "Prima facie evidence" of the violation of this act, if it were a law, would be the presence in his mill of one child who was under 16 years of age, it does not make any difference whether the child is employed there or not. That is not specified in the bill. He might be a telegraph messenger delivering a telegram, as this bill is drawn. The mere presence of a child under 16 years of age in that place within 60 days prior thereto makes a person or corporation liable to prosecution for every shipment made during those 60 days. The accused person might have made 500 shipments, and, at the maximum penalty, he might be subjected to a fine of $500,000. If ever there was a loosely drawn criminal statute it is there.

One child among 6,000 employees! Working in the mill? Working at the machines of the mill? No. A child whose labor contributes, "in whole or in part," to the "production" of the article. He might be carrying messages from one officer to another. For certainly a message contributes to the production of an article if it carries directions to those in charge of the machinery. So I say that the terms of this bill are as drastic as I have ever heard since reading Cromwell's Code, that punished 300 offenses by death.

Again, you will observe that nothing in this bill undertakes to penalize the employment of children of any age or for any length of time within a jurisdiction over which Congress has unquestionably complete control, the jurisdiction over those actually engaged in interstate commerce.

I mean telephone, railroad, and telegraph companies, etc. The boy of 10 or 12 years old who delivers messages telegraphed from one State to another, and who undoubtedly is an instrumentality of interstate commerce when he carries that message from the office in which it is received to the person to whom it is addressed. There has been no endeavor whatever in this measure to deal with those children to whom the jurisdiction of Congress unquestionably extends.

What, then, is the purpose of this measure? The purpose of the measure is plain upon its face but not in its title. You can not, however, by declarations in a title bring a subject within the control of the interstate power of Congress which by its nature is not within that control. You can not by calling a statute a regulation of commerce make it such. You can not by calling a horse a mule make him one in law or nature.

The purpose of the measure is to stamp out child labor in the production of goods intended for transport in interstate commerce. He would not only be a foolish man but an inhumane one who did not recognize that the employment of children in industry.was subject to many disadvantages, and that it is one of the foremost duties of the State to prevent the exploitation of the child. But the question presened to you is not whether you ought to stop the exploitation of the child but whether the means here suggested is a rightful exercise of the power of Congress in dealing with that subject.

Where does Congress get the right to regulate conditions of production as a condition precedent to the entrance of the commodity produced in commerce between the States? The power of Congress is to regulate commerce and the necessary incidents of commerce. For this purpose its power is plenary and exclusive; but this power is over commerce, not over production or manufactures. What, then, is this power?

Mr. Justice Harlan well described it when he said:

> This question has been frequently propounded in this court, and the answer has been—and no more specific answer could well have been given—that commerce among the several States comprehends traffic, intercourse, trade, navigation, communication the transit of persons, and the transmission of messages by telegraph—indeed, every species of commercial intercourse among the several States, but not to that commerce "completely internal which is carried on between man and man in a State or between different parts of the same State and which does not extend to or affect other States." The power to regulate commerce is the power to prescribe rules by which such commerce must be governed. (Adair *v.* United States, 208 U. S., 176–177.)

And what is commerce? It was said by the Supreme Court, in Justice Marshall's famous decision in Gibbons *v.* Ogden, that it was "intercourse," and that the power "to regulate" is the power to prescribe the rules under which that intercourse shall be governed. Is production intercourse? Is the production of any commodity for interstate commerce intercourse? This is not, of course, an attempt to regulate commerce within the State. It is an attempt to regulate production wholly within the State. Upon what theory? Upon the theory that Congress can so legislate, because in its opinion a circumstance or incident under which goods is produced is immoral or improper or dangerous to the public morals, so that that article ought not to be introduced into or enjoy the facilities for interstate commerce.

Where has that power ever been exercised? Where has it ever obtained any sanction from that tribunal to which we must look ultimately for an interpretation of the commerce power, the Supreme Court of the United States? Mention is made of the pure food cases, of the lottery cases, of the inspection and quarantine of cattle, and of the white slave act. As evidence of what? That Congress can exclude from commerce any article that it pleases, that it possesses this arbitrary power, and can, therefore, if it will, exclude this or any article from interstate commerce without even looking to the circumstances under which it is produced, because, obviously, it can not directly control production itself by any regulation.

Is there any evidence in any of these cases that supports that point of view? On the contrary, every article that has been excluded from commerce by Congress has been an article that was bad in itself; in other words, that was not a merchantable article, that was not a commodity of commerce. They have never undertaken at any time to either exclude an article good in itself, nor has the Supreme Court sustained the right to exclude a merchantable or pure commodity.

On the contrary, you can see this with certainty, that there is no contraband article that Congress has excluded from commerce that the States can not refuse to permit to be introduced under the conditions which Congress declines to permit it to go into commerce, because it injures commerce or because it injures those who receive it through that commerce.

Again, the right to engage in commerce preceded the adoption of the Constitution itself, and the Constitution does not create but merely recognizes that right and confers upon Congress the power to regulate its exercise.

In the lottery ticket case, which is taken as the chief pedestal upon which to support the exercise of the power expressed in this bill, we are confronted again and again with the statement of the great court that it is dealing with a "peculiar kind" of commerce. Indeed, this court says, and says very distinctly, Mr. Justice Harlan writing the opinion:

> It is a kind of traffic which no one can be entitled to pursue as a matter of right.

And he says again, at the conclusion of the long reasoning in that case:

> We decide nothing more in the present case than that lottery tickets are subjects of traffic among those who choose to sell or buy them; that the carriage of such tickets by interstate carriers from one State to another is therefore interstate commerce; that under its power to regulate commerce among the several States Congress—substitute limitations imposed by the Constitution upon the exercise of the powers granted—as plenary authority over such commerce, and may prohibit the carriage of such tickets from State to State; and that legislation to that end and of that character is not inconsistent with any limitation or restriction imposed upon the exercise of the powers granted to Congress. (Champion *v.* Ames, 188 U. S., 358.)

At the time of that decision a condition existed which does not exist here. The evil which you seek to reach is the evil of employing children in the production of goods under certain conditions, the standard of your idea of impropriety being there expressed. The evil is completed when the goods are produced by the children. Transportation in commerce affords the goods a market, but they do not injure by being received by the person to whom they go, except it be said that you encourage by purchase the manufacture of goods under conditions which you believe to be objectionable, improper, or immoral. Grant that to be the situation, is that a regulation of commerce which denies its facilities to those who employ in production those whom Congress thinks ought not to be employed, because you then admit that what you seek to do is to force upon a State that does not have a congressional standard of production the adoption of a police regulation of manufactures fixed by Congress?

In the Lottery Ticket case you had a thing bad in itself, which it was essential should be transported in order that the transaction which the lottery tickets represented should be complete.

The Chairman. Was the lottery ticket bad in itself until Congress said so?

Mr. Emery. Yes; it was bad in itself because it was a gambling contract, and it required the facility of interstate commerce to complete the agreement to pay money if the gambler won. The ticket was sold in one State, sent to another, and the person who bought it had a contract with the lottery company, which thereby agreed that if he won the prize he got the money. The States have declared by its prohibition their opinion that gambling was a bad thing, the Supreme Court of the United States said: "May Congress not say that this pestilential thing, gambling, which uses the facilities of interstate commerce for a traffic in which no one may of right indulge to complete its transactions, may be stopped?" Years and years before the Supreme Court had said that a person could not enforce his gambling contracts.

Mr. KEATING. I am one member of the committee, by the way, who is not a lawyer, but you stated just now that the Supreme Court had stated that this pestilential thing, a lottery ticket, should be excluded because of the damage it might be where it was received. Might not the Supreme Court hold that child labor was a pestilential thing, and that it could not be sustained, it could not live, unless the product of child labor should find a market in adjoining States? In other words, that the products of child labor had a moral taint, which was quite as definite as any other taint.

Mr. EMERY. If it has a moral taint, it is quite within the power of the State within which it resides to destroy it. In the lottery case, to show you the lack of a parallel, the States could forbid the gambling, but the States could not forbid the placing of the ticket in the mail or the placing of the tickets by an express company in interstate commerce and its transfer to another point where the persons who purchased it had made a contract. The State could not reach the party at the other end of the transaction, and the State could not stop the completion of the one thing that made the contract complete—the delivery of the ticket. The States can completely meet the situation that here exists by forbidding the condition.

Mr. KEATING. The State may forbid child labor when it is within its own borders and, to that extent, forbid the manufacture by child labor of the products of child labor, but the State can not prevent the importation of that same pestilential thing and its sale within its borders.

Mr. EMERY. It can prevent its retail sale in every single State in this country, on the same principle as the State can forbid the sale of alcohol, whisky, beer, or anything else. It can not stop these sales in the original package, but they can not be exposed for sale in any retail store in this country that the State can not stop the sale, and it is doing so in many of the States of the Union to-day. If you want legislation from the States to protect themselves, they can stop the retail sale of child-labor goods so far as they please, on just exactly the principles that they apply to protect the pollution of that State by whisky in opposition to the moral opinion prevailing in that State.

There has been nothing clearer in the course of the whole judicial history of this country than the endeavor to keep distinct the difference between the regulation of commerce and the regulation of manufactures.

The Supreme Court of the United States began away back in the early part of the century and has been pointing out attempts on the part of the Nation to regulate production as distinguished from

attempts to regulate and control transportation and commerce between the States. You could not have a clearer statement of this than was made by the Supreme Court in the case of Kidd *v.* Pierson (128, U. S., p. 1), where Mr. Justice Lamar said:

> **"No distinction is more popular to the common mind or more clearly expressed in economic and political literature than that between manufacture and commerce. Manufacture is transformation—the fashioning of raw materials into a change of form for use. The functions of commerce are different.**

In the celebrated Knight case the Supreme Court made the statement:

> Commerce begins where manufacture ends. (U. S. *v.* E. C. Knight Co., 156 U. S. 13-14-15.)

Quoting again from Kidd *v.* Pierson:

> **The functions of commerce are different. The buying and selling and the transportation incident thereto constitute commerce; and the regulation of commerce in the constitutional sense embraces regulation at least of such transportation. If it be held—**

As these gentlemen would have you do—

> that the term includes the regulation of all such manufactures as are intended to be subject to commercial transactions in the future, it is impossible to deny that it would also include all productive industries and contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States with the power to regulate, not only manufactures but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every kind of human industry. For is there one of them that does not contemplate, more or less clearly, an interstate or foreign market? Does not the wheat grower of the Northwest and the cotton planter of the South plant, cultivate, and harvest his crop with his eye on the prices at Liverpool, New York, and Chicago? The power being vested in Congress and denied to the State—

Because, if it is vested in Congress, it is denied to the State—

> it would follow as an inevitable result that the duty would devolve upon Congress to regulate all of these delicate, multiform, and vital interests—interest which in their nature are and must be local in all the details of their successful management. The demands of such supervision would require not only uniform legislation generally applicable throughout the United States but a swarm of statutes only locally applicable and utterly inconsistent. Any movement toward the establishment of rules of production in this vast country, with its many different climates and opportunities, would only be at the sacrifice of the peculiar advantages of a large part of the localities in it, if not of every one of them. On the other hand, any movement toward local, detailed, and incongruous legislation required by such interpretation would be about the widest possible departure from the declared objects of the clause in question.
>
> Nor this alone. Even in the exercise of the power contended for Congress would be confined to the regulation, not of certain branches of industries, however numerous, but to those instances in each and every branch where the producer contemplated an interstate market. These instances would be almost infinite, as we have seen; but still there would always remain the possibility, and often it would be the case, that the producer contemplated a domestic market. In that case the supervisory power must be executed by the State, and the interminable trouble would be presented that whether the one power or the other should exercise the authority in question would be determined not by any general or intelligible rule but by the secret and changeable intention of the producer in each and every act of production. A situation more paralyzing to the State governments and more provocative of conflicts between the General Government and the States and less likely to have been what the framers of the Constitution intended it would be difficult to imagine.

Mr. **Denison**. Let me ask you there, do you think, if this bill was passed, that the presence of the child in the factory would make it unlawful for them to manufacture these goods for State consumption?

Mr. **Emery**. Oh, no, sir.

Mr. **Denison**. How could it be told?

Mr. **Emery**. Of course, to complete this crime two things are essential. One is that a person is manufacturing an article for interstate commerce, and another is that he actually ships it.

Mr. **Denison**. Yes.

Mr. **Emery**. And at the time when that article was produced there was a child in that factory who was under 14 years of age, or if the factory ran more than eight hours, or he was employed more than eight hours, was less than 16 years of age—this bill says that the mere presence of the child in there at any time during the 60 days preceding the shipment of that goods is prima facie evidence of the fact that he was unlawfully employed.

Mr. **Smith**. He has to be present eight hours?

Mr. **Emery**. No, sir; there is a preposition there, not a conjunction.

> Proof of the presence within sixty days prior to the shipment of such product therefrom in a mine or quarry of a child under the age of sixteen years, or in a mill, cannery, workshop, factory, or manufacturing establishment of a child under the age of fourteen years.

Mr. **Smith**. It says for more than eight hours.

Mr. **Emery**. The rest is mere surplusage. There is a comma there.

Mr. **Smith**. There is no comma in this bill.

Mr. **Emery**. There is a comma in mine; a child under the age of 14 years and then a comma.

Mr. **Smith**. And then, "For more than eight hours in any one day or more than six days in any one week."

Mr. **Emery**. That is a separate offense. That is surplusage.

Mr. **Smith**. I do not think it would be a reasonable construction of it, if a child came in there to take a man's dinner. He would have to be at work.

Mr. **Emery**. I am talking about the way it is written, and more than that, it says if the commodity is produced "in whole or in part." It is not necessary that the child is engaged on a machine. If he is in the establishment; if his labor contributes to that product. I suppose, if he carries a message or does one of many other little things, that his labor is contributing in some way to the production. Mind you, I am not at all concerned in making any objection to the regulation of child labor, even to the standard presented in here.

Mr. **Smith**. Your State probably has it?

Mr. **Emery**. I am not speaking for a State.

Mr. **Smith**. Will you please tell us upon what principle a State has the right to suppress the sale of an article innocent in itself and wholesome, that is made by a child under 16 years of age; and if it has the right to suppress it if it is made by a child 16 years of age, why does it not have a right to suppress it if it is made by a child 20 years of age?

Mr. **Emery**. It does it. Is suppresses the manufacture of whisky.

Mr. **Smith**. That is a different thing.

Mr. EMERY. On the ground that beer or ale is an intoxicating liquor——

Mr. SMITH. This is a wholesome article, like a pair of shoes or cotton goods, or a can of tomatoes. We have a great many of them in my State. You think they have the right to suppress the sale of that in the State?

Mr. EMERY. Yes, sir; they are doing it.

Mr. SMITH. Upon what principle?

Mr. EMERY. The gentlemen said here in the hearing that 40 States have adopted the standard here made, which suggests, by the way, that there is no need for national legislation. If 40 States have adopted it, there is not much need for Congress. Lots of legislation is enacted which courts never pass upon. The 43 States of the Union having legislatures in session last year had 56.000 bills presented to them and enacted 16,034 new statutes. Many of them did not reach the courts, of course. In five years, between 1909 and 1913, we had 60,000 new statutes added to the books, and our courts are reasonably busy, because the courts delivered 65,000 opinions in those five years.

Mr. KEATING. Pardon me while on that point, but your declaration that there were States which forbid the sale of goods in which production by child labor had entered was news to me.

Mr. EMERY. I did not say that there were States that prohibited the sale of goods made by child labor. I said that the State could prohibit the retail sale of goods which concerned the morals of the States.

Mr. KEATING. But no such legislation has been enacted?

Mr. EMERY. I do not know of any, but that is subject, of course, to this, that if you fear that no State law which prohibits the retail sale of the product of child labor can be sustained upon the ground that it is not legislation for good morals, then the act of the Congress of the United States can not be maintained if it rests its regulation of interstate commerce in these goods on the ground that it offends good morals.

Mr. KEATING. I have no fear of that.

Mr. EMERY. It can not be moral for a Congress to do a thing that is immoral for the State.

Mr. KEATING. The point I wanted to make sure was that I understood your statement in two particulars. The first was the enactment by the State legislatures of laws prohibiting the sale of products manufactured by child labor.

Mr. EMERY. No; I did not make that statement. I was speaking of a parallel, and I said that States could enact legislation that would forbid the retail sale of any goods in that State.

Mr. KEATING. Would that prevent the importation of the goods into the State?

Mr. EMERY. If they could not find a retail market, it would have the effect that this bill proposes.

Mr. KEATING. Would it prevent the importation in original packages?

Mr. EMERY. That could not go very far.

Mr. KEATING. But would it?

Mr. EMERY. The original-package proposition is, of course, generally sustained by the courts. You can not prevent an importer from importing an original package.

Mr. KEATING. But you can by this bill.

Mr. EMERY. You could, if it is constitutional.

Mr. KEATING. If it is constitutional, this bill has teeth and would do the work.

Mr. EMERY. Has teeth? I think it has a false palate. There is no question that if the bill were of no consequence it would not have any effect and would not be worth discussing, of course.

Mr. SUMNERS. The several States, when they were completely sovereign, of course had the power to turn back commodities at their borders.

Mr. EMERY. Yes, sir.

Mr. SUMNERS. When they formulated the union they surrendered that power; at least, they did not have the right to exercise it. Now, what became of that power? Part of it, of course, went to the Federal Government, and is declared under the interstate commerce clause. Now, according to your construction of the interstate commerce clause, and probably the construction of the State, they have the power to turn back only those commodities which are evil within themselves, the sale and distribution of which among the States is contrary to public policy. Now, then, suppose the State, to carry out the public policy of the State, compelled its citizens to not use a part of the producing power of the State, namely children, within a certain age limit. Is there any power anywhere for a State to protect its citizens, or the Federal Government to protect he citizens from the State and the declared policy of the State, against such competition as would put it to a disadvantage and punish undertaking to carry out what it thinks is a sound public policy? Is that power anywhere in our Government, and I speak now of the Government represented by both the States and the Federal Government?

Mr. EMERY. You know an Irishman often answers one question by asking another.

Mr. SUMNERS. But you do not look like an Irishman.

Mr. EMERY. I have to confess that I am.

Mr. SUMNERS. I beg your pardon. I should not have said that.

Mr. EMERY. The condition you speak of finds its parallel not only in the competition of child labor, but in the competition of lower-paid labor in any two States of the Union. If the State of North Carolina or the State of South Carolina can get labor at $2 a day; if they can engage labor down there for $2 a day, and the State of New Jersey or the State of New York pays $3 and $3.50 a day for the same labor, the State of New York can not stop the importation of goods from North Carolina on the ground that they pay $1 or $1.50 a day more in wages than the State of North Carolina or the State of South Carolina, and that in order to create perfect equality in wages North Carolina must pay the same wage they do or the goods can not come in the State.

Mr. SUMNERS. I understand that; that is why I asked the question. Is it your idea that that power inherent in complete sovereignty was surrendered after the formation of the Union, free from the right of anybody to legislate with regard to it?

Mr. EMERY. The power of the States to prescribe rules for intercourse between themselves was surrendered.

Mr. SUMNERS. Dissipated, you mean.

Mr. EMERY. No; surrendered. You will find the finest discussion I have ever heard of that in the great opinion of Justice Jackson.

Mr. SUMNERS. If it is surrendered to the National Government, then the National Government has power to exercise it.

Mr. EMERY. It is conferred upon it?

Mr. SUMNERS. Any way you put it. If it was given to the Federal Government, they have a right to exercise the power.

Mr. EMERY. You must remember that that power is conferred, subject, as Mr. Justice Marshall says, and as they all say, subject to the other limitations of the Constitution.

Mr. SUMNERS. There are none.

Mr. EMERY. Oh, there are a great number.

Mr. SUMNERS. That is a difference of opinion. I know of no limitation in the Constitution limiting the exercise of the powers conferred by the interstate-commerce clause.

Mr. EMERY. If you will read the case of Adair, Two hundred and eighth United States, you will see that a regulation of commerce was involved, and the court held that enactment of Congress conflicted with the fifth amendment of the Constitution, inasmuch as it deprived a defendant of a property right, to wit, the right to contract for his services, and to sever his contractual relations with another.

Mr. SUMNERS. That was not the point.

Mr. EMERY. I say, the commerce clause was the clause under which the regulation was enacted, and the inhibition of the fifth amendment prevented that regulation of commerce from being held valid. It was invalid under that section.

Mr. DENISON. Then, as a matter of fact, when the Federal Government was formed and the Constitution finally accepted and this country in a measure made one country, a part of this power which originally excluded the products of one State from entrance to another was destroyed entirely.

Mr. EMERY. Yes, sir. What they desired to do was to secure personal freedom of intercourse between the States, free from obstruction by these States, and under the interstate-commerce clause, as ex-Senator Knox, of Pennsylvania, says, Congress can remove anything that retards the free flow of commerce, whether it is "physical or economic, a mob, a monopoly, or a sand bank."

I do not want to go into the proposition that because a thing is produced for interstate commerce that intention gives Congress power of regulation over it; that is, that the intention of the producer to place an article in interstate commerce gives Congress control of that production. We are dealing with a regulation of commerce and not a regulation of production. You will find an interesting statement relating to that in Coe *v.* Erroll, in One hundred and sixteenth United States, where a lumberman of the State of Maine was shipping logs down to the Maine coast and they were tied up along the bank of the river upon which they were being floated, and there the town authorities seized these logs and taxed them, and the lumberman fought the right of the town to tax the logs, and the case went finally to the Supreme Court of the United States, which court held that the taxing of these logs was not a tax upon an article in interstate commerce, because they had not entered into interstate commerce, and that the intention of the producer can not determine the characteristic, for the obvious reason that he may at any time change his mind. He may produce them for shipment in interstate commerce and change his mind and sell them for local consumption, and hence they would lose that characteristic.

Now, what is the nature of this power to declare an article contraband or an "outlaw" of commerce, an illicit article? That comes to the very point that, it seems to me, is a vital one in this measure. Can the Congress of the United States, because in its opinion the product of child labor is immoral or injurious to public morals or public welfare, exclude it from commerce on the ground that it is an illicit article of commerce? That doctrine has never been applied in any case I can find, from the lottery case, as I say, to the last expression of the Supreme Court in the white slave case, except upon this ground, that the right of Congress to regulate commerce included the right to exclude from that commerce a noncommercial article, or one that is not merchantable or would be injurious to that commerce itself. Thus, Congress excludes all diseased or infected or poisonous or obscene articles or articles injurious in themselves. Thus, you have the principle of the meat-inspection act; you exclude diseased meat from commerce because it is not an article of commerce. You exclude misbranded articles from commerce because no man has a constitutional right to use the facilities of interstate commerce to defraud another. This you have illustrated in two notable cases, first, where the law of Massachusetts forbade the introduction of misbranded oleomargarine and other products, and the oleomargarine went into the State of Massachusetts and it was seized and the owner convicted. (Plumely *v.* Mass., 155 U. S., 461.) In that case the conviction was sustained, although it was contended that Massachusetts was interfering with interstate commerce. Justice Harlan said "No; that is fraud; that is the use of interstate commerce to perpetuate a fraud, and no man has a right to sell a thing under the pretense of its being something else, because it is not a merchantable commodity, obviously."

At the same time, when oleomargarine went into the State of Pennsylvania and the State undertook to seize it when it was labeled for what it was, the Federal courts said no, and prevented its seizure on the ground that it was sold for exactly what it was, and it was given recognition as a merchantable commodity. (Schollenberger *v.* Penn., 171 U. S., 1.)

Mr. SUMMERS. May I ask you a question right there?

Mr. EMERY. Yes.

Mr. SUMMERS. Do you think the courts would uphold a statute forbidding the import into a State of an article correctly labeled as having been produced, in whole or in part, by child labor?

Mr. EMERY. As a matter of first impression, I would think so. This is the only proposition involved. Our Government says that the rule of interstate commerce shall be substantially related to the commerce it regulates, as in the case which I referred to of Adair *v.* United States (208, U. S.).

The court could not see any relation between the rule and the promotion or protection of commerce. They said, "We can not see why a man who belongs to a union should be expected to perform his duties in interstate commerce, because of that fact, any better than a man who did not belong to a union. So that we do not see any reasonable relation between the rule and the subject matter involved." So that that is the final rule, of course. Any rule prescribed for the conduct of commerce must not be arbitrary but must be a rule in accordance with the principle that commerce be regulated in such manner as not to conflict with the guaranties of the Constitution. The Government of the United States is more a Government of prohibition than a Government of affirmation. An examination of our Constitution will disclose that there are 79 affirmations as against 115 negations.

Now, it is a serious matter for a Government to change its existing policy for a new policy which is revolutionary in character. If you were certain that you could say that no products of the cotton mills should pass in interstate commerce except under certain conditions prescribed by Congress, would it be a good thing for you to do? Why, among our 48 States there are constant conflicts of interest. You hear of them always. There are conflicts as to the advantages or disadvantages of one State or the other in so far as commerce is concerned.

I spoke a moment ago about the argument that was made here that some States would not adopt these laws because they were afraid of the competition of the other States, where there were poorer labor laws. You will see the conflict not only in that respect but in dozens of other lines. One State will make great concessions to manufacturers, granting them water-power rights on very favorable terms for the purpose of getting manufacturers to come into the State and locate there and develop its resources. It will encourage railroads to construct lines through certain sections of the State in order to get common carriers to come in there and build up competition. Every State in the Union at one time or another is confronted with questions like this. One State will say, "We pay a very high wage, and for that reason we are at a disadvantage with the other States. For instance, in the State of California, where men can work every day in the year out doors, there are many advantages which are not possessed by the Eastern States, for instance, the State of Maine, where the men can work out doors only seven or eight months in the year, the snow and frost preventing them from enjoying the benefits possessed by the people of California. Of course nobody would undertake to equalize the conditions whereby you could sell fur coats in the State of Florida and create a similar demand for Palm Beach suits in the State of Maine. Those are disadvantages that can not be overcome through legislation by Congress. There are conditions existing in some of our States which are due to certain natural conditions or to the varying policies of the people, less of knowledge, education, or skill that the richer States enjoy. Some of our richer States enjoy certain things that are denied to the poorer States, because States like individuals are limited in the realization of their ambitions by the size of their pocketbooks.

Now, if this legislation is placed upon our statute books, you will immediately encounter a demand in Congress for legislation against the shipment of goods of all kinds in interstate commerce. You would probably hear of a very strong idea that the workers of this country ought not to receive less than $3, $4, or $5 a day. If this law was passed, Congress could be asked to prevent the shipment of any goods in interstate commerce produced by men who worked more than eight hours a day, or who received less than $3 a day. Or the requirement might be that the men who produced the goods should be able to speak 300 words in the English language, or 200 or 100. You could apply a literacy test precisely the same as that which was vetoed by President Wilson in the last immigration bill, which passed the Sixty-third Congress. If the Congress, in its plenary power, can attack such conditions as are named in the bill now before the committee to the shipment of goods in interstate commerce, where will it lead to? With continual restrictions placed upon the shipment of goods in interstate commerce, Congress, instead of keeping commerce free, would lay new burdens upon it.

Mr. DENISON. It is your opinion that a similar law preventing the interstate shipment of prison-made goods would be illegal or unconstitutional? Is that right?

Mr. EMERY. I think so. Now, if you want to amend the Constitution, that is another question.

Mr. DENISON. Oh, no.

Mr. EMERY. I am speaking of the law as it now exists and conditions as they are, and not what they ought to be. If you wish to have it that way, because we may always differ about the power of Congress to do the things which they ought to do as distinguished from what they have the power to do. With 90 per cent of the commerce of this country sold in places outside of the State in which it is produced, if Congress fixed the conditions under which production is to be had, then the whole police power of the State is an empty thing; then the State government passes away, and the Federal Government becomes a despot, possessing and exercising the powers of the State with respect to the supervision and control of the production of the goods which are essential to the public welfare. If a proposition such as is now before the committee can be seriously considered, however meritorious its purpose may be, and however sympathetic we may be with its object, it means that there is practically no regulation of production of a fairly reasonable nature by Congress that would be imposing unreasonable burdens upon commerce and substituting its views and its judgment—the judgment of about 400 men—in place of the views of representative men of the different States in which local conditions are sought to be remedied. Then the younger communities, the newer States that are now springing into industrial life, and all of these Southern States that have just emerged out of a State of war and reconstruction are at a disadvantage, a tremendous disadvantage, in competing with the better settled and older States, with larger capital and all the advantages that their long life and experience have given them. I am speaking for a body of people who have very few southern manufacturers among them. I know that my people are not willing to say that you shall burden the southern manufacturers in order to reduce them to some imaginary condition of equality in competition with their fellow manufacturers in the North, East, and West.

Mr. KEATING. Mr. Emery, may I ask you a question?

Mr. EMERY. Yes, sir.

Mr. KEATING. During the last Congress this committee had this bill practically under consideration?

Mr. Emery. Yes, sir.

Mr. Keating. And by direction of the chairman every manufacturers' association, every large manufacturer that we could reach, was notified that the bill would come before the committee?

Mr. Emery. Yes, sir.

Mr. Keating. So far as I know, we did not receive a single protest from a manufacturer outside of certain Southern States. We did not hear from any of those northern and western manufacturers, so far as I know, whom you say you represent here to-day. So, with all deference, I want to ask you when was this question submitted by you to the manufacturers of the West and North and South, and when did they take action saying that they did not want this legislation enacted and authorize you to appear here to-day and make the very sweeping assertion which you have just made, that this vast number of manufacturers, representing all lines of industry, are united in their opposition to this measure?

Mr. Emery. My opinion was asked on this measure at the last meeting of the board of directors of the association, in October. I had expressed to them, or to the president of the association, with respect to this legislation——

Mr. Keating (interposing). Who is the president of your association?

Mr. Emery. Mr. George Pope is president. He is president of the Pope Manufacturing Co., of Hartford. He had expressed some views with respect to the bill which I had expressed here last year when this matter was under discussion. To begin with, I did not know of it at first. I did not discuss it, because it seemed to me so palpable. I thought that the fact this very question had been submitted to the Judiciary Committee of the House in February, 1907, in substantially the form in which it is here presented, except that the Beveridge bill involved placing the penalty upon the carrier instead of the manufacturer, and the fact that the Judiciary Committee of the House unanimously, without respect to political party—and right here I would like to call your attention to the distinguished men who were on the Judiciary Committee at that time: John J. Jenkins, Richard Wayne Parker, De Alva S. Alexander, Charles E. Littlefield, Robert M. Nevin, Henry W. Parker, George A. Pearre, James N. Gillett, Charles Q. Tirrell, John A. Sterling, Benjamin P. Birdsall, and John H. Foster. These were the Republicans. The Democrats were David A. De Armond, David H. Smith, Henry D. Clayton, who is now on the United States district bench, Robert L. Henry, who is now a Member of this House, John F. Little, of Arkansas, and William G. Brantley, of Georgia. They expressed the opinion that the question of the jurisdiction of Congress over the regulation of female or child labor in controlling the conditions under which its products should be introduced into interstate commerce was not, as they said, a debatable question. It would be a reflection upon the intelligence of Congress to so legislate and put an unnecessary burden upon the Supreme Court. That was their opinion.

Mr. Keating. I might say that that reminds me very much of Mr. Taft's veto of the Webb-Kenyon bill, where he stated that he was quite confident that it was unconstitutional, and in making that declaration he was merely following the judgment of the Senate Committee on Judiciary, headed by a very distinguished lawyer, Mr. Knox, of Pennsylvania, once Secretary of State and afterwards United States Senator, and that those two distinguished gentlemen, Mr. Taft and Senator Knox, had their opinion buttressed by the opinion of the Attorney General of United States, Mr. Wickersham, that all three of these gentlemen united in the opinion that the bill was unconstitutional, and the House saw fit to ignore that opinion and the Supreme Court has taken the same view.

Mr. EMERY. Pardon me just a moment. As a matter of fact, Mr. Keating, the Supreme Court has not taken that view. In fact, it has not passed upon the issue upon which Mr. Taft vetoed that bill. That question is now pending before the Supreme Court.

Mr. KEATING. At least, the Supreme Court has not knocked it out yet.

Mr. EMERY. No, sir; it is now before that court.

Mr. KEATING. Now, to come back to this particular proposition, because we have gotten away from the main point I was asking you about when the question was submitted to the membership of your associations.

Mr. EMERY. Yes, sir.

Mr. KEATING. Was the question ever submitted to the individual manufacturers of your association—how many manufacturers are represented in your association?

Mr. EMERY. About 4,000.

Mr. KEATING. Was the question ever submitted to them?

Mr. EMERY. Why, the information of the action of the board of directors was sent to all of them. The way in which the presentation of the matter to the board of directors came about was that there were many inquiries from manufacturers respecting the measure, and these inquiries were turned over to me and I wrote a number of letters giving my opinion on the legislation. I had copies made of my opinion and sent them to the various manufacturers, and the matter came before the board of directors just as such matters usually come up, on the inquiry of a great many members. The board asked for the opinion which I gave them, and the board then expressed in a resolution their opposition, not to the subject matter of this legislation but to the principle of regulation herein involved, for the reason that it was a very serious matter to propose that Congress shall regulate production in the various States. I had no idea that action would be taken on it by Congress because, in view of the action of the House Judiciary Committee, I thought it was res adjudicata.

Mr. KEATING. I wanted to know what action was taken by the members of your association. Was there a meeting of the executive committee?

Mr. EMERY. There is no executive committee. There is a board of directors. There are 26 directors representing 26 States of the Union. They practically represent every State in the Union.

Mr. KEATING. And so far as the individual members were concerned they did not take any direct action other than that?

Mr. EMERY. They could not take any direct action other than that. Of course, whether the board of directors were slow or late in acting upon the matter, I trust it does not in any way affect the merits of the measure. I cheerfully say that so far as the regulation of child labor is concerned that, within the limits in which the States can act, I know of no organization that will exert itself more promptly in any reasonable regulation in the various States than the National Association of Manufacturers, but I would not undertake to support the principle of regulation herein proposed, especially in view of the action of Congress last year, which passed the measure with practically no debate on the floor of the House.

Mr. KEATING. Do you consider the standards set up in the bill as reasonable, from your experience?

Mr. EMERY. Why, yes. Of course, I am not a manufacturer.

Mr. KEATING. But, as compared with other laws, you consider them reasonable?

Mr. EMERY. Yes, sir; as compared with other laws in other States, generally speaking. Of course, there are some States more advanced than others. Now, I do not live in the South, but I visit there from time to time, and I think I know something of the conditions there. I have been impressed with the fact that the cotton industry has done more to bring illiterate individuals from the mountains into contact with opportunities for education than anything else in that section of the country. I have seen many children enter the school house through the doorway of the factory. I feel just as strongly on the subject of unreasonable labor for children as any man could; but I go further than that. I go further than the distinguished Congressmen by saying that I can not, with such experience as I have had on the subject, share the belief that one of the most successful forms of employment is to rouse a child out of bed before daybreak, put him behind a mule or a horse, and run him eight hours before dinner and eight hours after dinner.

The CHAIRMAN. Mr. Emery, are you nearing the end of your argument?

Mr. EMERY. Yes, sir; I am concluded now. I want to thank the committee, if I may, for their very great indulgence with me. I realize that I have exceeded the time which you have given and apologize to you gentlemen.

Mr. WATSON. We have been very much interested in what you have said.

(Thereupon the committee adjourned to meet Thursday, January 13, 1916, at 10 o'clock a. m.)

COMMITTEE ON LABOR,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Thursday, January 13, 1916.

The committee met at 10 o'clock a. m., Hon. David J. Lewis (chairman) presiding.

The CHAIRMAN. The committee will come to order. I believe that Prof. Parkinson was the gentleman who was to return this morning. Professor, give your profession, name, and residence.

STATEMENT OF PROF. THOMAS I. PARKINSON, DIRECTOR OF THE LEGISLATIVE DRAFTING RESEARCH DEPARTMENT OF COLUMBIA UNIVERSITY, NEW YORK CITY.

Mr. PARKINSON. Before discussing the technical considerations which are involved in the constitutionality of this proposed legislation, I want to direct the attention of the committee to one or two general considerations which are important to the understanding of the whole problem of its constitutionality.

In the first place, there are two distinct questions before this committee with respect to this legislation. The first is its desirability, and the second, its constitutionality. I say this because I think that much of the discussion had before the committee with respect to its constitutionality has been directed more pertinently to its desirability; and where this committee has both questions before it, I think it is true that on the question of its constitutionality—that is, the constitutional power of Congress to enact this kind of legislation—the committee does not have the same ultimate responsibility that it has on the question of its advisability. On the question of advisability Congress is the ultimate determiner; whereas on the question of constitutionality, while, as a coordinate branch of the Government, you must pass on the question, the ultimate decision must rest with the Supreme Court; and that is important only, it seems to me, as a means of approaching the question in the right attitude of mind; and that, I think, is this, that you do not need to have it demonstrated to you beyond all doubt that this proposed legislation is constitutional. If you did, there would be no progress in our constitutional law, and particularly no progress in the development of the Federal power under the commerce clause. The Supreme Court has constantly extended the Federal power, under the commerce clause, beyond preconceived notions of its limitations. But before the Lottery case was passed upon by the Supreme Court no one would have gone abroad and said beyond any manner of doubt that the law was constitutional. On the contrary, it would have been possible to have brought any number of men before this committee, or any other committee of Congress, who would have cited any number of instances quoted from the opinions of the Supreme Court to persuade you that it was unconstitutional.

The same is true of the Mann White Slave Act, and I say to you that if Congress, when the legislation was before it, had refused to pass it, merely because there was a doubt of its constitutionality, merely because they were fearful lest the Supreme Court of the United States might not vote it constitutional, lotteries would still be thriving, and so would the white slave traffic, and the States would be powerless to control either of the two.

So, I say to you that while you must give the subject consideration, you can not pass it up to the Supreme Court without consideration. You must, nevertheless, remember that on that subject, as distinct from the desirability of this legislation, not you but the Supreme Court of the United States is to have the ultimate responsibility of the final decision.

One other general consideration. On a question like this, which is new and which arises under a general clause of the Federal Constitution, it is perfectly possible for any lawyer who is familiar with the decisions of the Supreme Court, to come here and read you a paragraph from this decision and a sentence from that decision, and to so collect and coordinate those paragraphs and sentences as to leave you with the distinct impression that there is something wholly wrong and wholly unconstitutional about the proposal under consideration. But I say to you that those unrelated and very often general sentences or paragraphs from the opinions of the Supreme Court are not the basis for the determination of the constitutionality of new proposals. It is very often true, not only of the Supreme Court but of the Judiciary Committees of both Houses, and indeed of all of us, that when we are discussing in a general way, without a particular problem in our minds, and without any responsibility for passing on the problem, we may use general language which appears to solve or to approach that problem either favorably or unfavorably.

When the Judiciary Committee of the Senate, I think, in the general language, in the report which Mr. Emery read to us the other day——

Mr. Emery. The House committee.

Mr. Parkinson. The House committee referred generally to the constitutionality of this legislation, they probably went beyond the point where they would have stopped if they had been giving it their very serious consideration as constitutional lawyers, and all through the opinions of the Supreme Court on any question you will find sentences and paragraphs not related to this particular subject, written by judges who never thought of the application of those sentences or paragraphs to this particular kind of legislation, which seem either to show that the court then thought this would be constitutional, or that it would be unconstitutional. It is the same old story. If you are allowed to select sentences from the Bible, or any such document, you can prove almost anything by it, and so you can with sentences selected at random from the decisions of the United States Supreme Court.

Now, just to show you what that kind of argument leads to, I am going to read a few sentences from the last decision by the United States Supreme Court on this subject, or as near to the subject as the Supreme Court has ever gotten. This is taken from the case of Hoke *v.* United States, the opinion written by Mr. Justice McKenna, holding constitutional the Mann White Slave Act.

> Plaintiffs in error admit that the States may control the immoralities of their citizens. Indeed, this is their chief insistence, and they especially condemn the act under review as a subterfuge and an attempt to interfere with the police power of the States to regulate the morals of their citizens, and assert that it is in consequence an invasion of the reserved powers of the States. There is unquestionably a control in the States over the morals of their citizens, and, it may be admitted, it extends to making prostitution a crime. It is a control, however, which can be exercised only within the jurisdiction of the States, but there is a domain which the States can not reach and over which Congress alone has power, and if such power be exerted to control what the States can not, it is an argument for—not against—its legality. Its exertion does not encroach upon the jurisdiction of the States. We have cited examples; others may be adduced. The pure food and drugs act is a conspicuous instance. In all of the instances a clash of national legislation with the power of the States was urged, and in all rejected.
>
> Our dual form of government has its perplexities, State and Nation having different spheres of jurisdiction, as we have said, but it must be kept in mind that we are one people, and the powers reserved to the States and those conferred on the Nation are adapted to be exercised, whether independently or concurrently, to promote the general welfare, material and moral.

And in the same case, discussing the extent to which that act might interfere with the manufacture within the State, it is said:

> It may be that Congress could not prohibit the manufacture of the article in a State. It may be that Congress could not prohibit in all of its conditions its sale within a State. But Congress may prohibit its transportation between the States, and by that means defeat the motive and evils of its manufacture.

Mr. Smith. The manufacture of what? Does that tell?

Mr. Parkinson. They were discussing the pure food and drugs act. Now, notice that last sentence—

> But Congress may prohibit its transportation between the States, and by that means defeat the motive and evils of its manufacture.

Now, we read these sentences at this point, not for the purpose of discussing that particular matter referred to by this opinion, but to show to you that if this matter is to be decided by general statements in the decisions of the Supreme Court, you can collect just as many on one side as you can on the other, and in almost every instance they will be shown to have been made without consideration of the particular problem which you now have to deal with. The Supreme Court has constantly said that they do not mean their decisions under the commerce clause to be pushed beyond the particular phase of the case then before it. I say this, as I said a moment ago, merely that we may approach this problem in the right attitude of mind toward these general considerations which affect the real problem before us, which is: Has Congress the power, under the Federal Constitution, to enact and enforce legislation of the kind proposed in this Keating-Owen bill.

That problem depends upon the provisions of the Federal Constitution. It does not depend upon our ideas of what ought to be in the Federal Constitution, but what is there. It does not depend upon our ideas as to what ought to be the relation between the Federal Government and the States, but what that relation is, under the provisions of the Federal Constitution. It does not depend upon our ideas of what ought to be the balance of powers between the Federal Government and the States, but what is the balance as provided for by the Federal Constitution, and we can not arrive at any constitutional solution of that question except by getting down to brass tacks, and that means to the actual provisions of the Federal Constitution which are involved in this question.

The Federal Constitution gives to Congress the power to regulate interstate commerce. In the same clause, in the same words, it gives to Congress the power to regulate foreign commerce and commerce with Indian tribes. If we consider only the extent of the power to regulate commerce given to Congress by the Federal Constitution, that is the only provision in the Federal Constitution, except Article I, section 9, which reads:

> The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808.

The balance of the provision is immaterial.

Now, for the purpose of keeping this problem clearly in mind, I want you to consider for a moment the extent of the power to regulate commerce, assuming that there is nothing else in the Constitution which deals with the problem, and there is nothing else except the fifth amendment, which is a separate and distinct matter, as I have to show you in a moment.

From the point of view of the question, what is the power of Congress over commerce, in so far as the relation between the Federal Government and the States is concerned these are the only two provisions in the Federal Constitution which are in point. The fifth amendment does not refer to the power of Congress over commerce, in so far as that power involves the relation of the Federal Government to the States. It is a guarantee to individual persons of certain rights which the Congress can not take from them, but it has nothing to do with the question of what, as between the Federal Government and the States, is the extent of the Federal power over commerce.

The CHAIRMAN. You mean the life, liberty, and property clause?

Mr. PARKINSON. The life, liberty, and property clause. The extent of the power of the Federal Government over commerce must be determined under that grant of general power to regulate interstate, foreign, and Indian, and the problem before us is, first, does "regulate" include power to prohibit? We all know that Congress has frequently prohibited the shipment of certified articles, persons, and things in interstate commerce.

The CHAIRMAN. Can you enumerate them?

Mr. PARKINSON. I shall do so in a moment, Mr. Chairman. We all know that Congress has excluded and prohibited the importation of specified persons and things in foreign commerce.

Mr. DENISON. Does it bother you to have us ask questions, or would you prefer to get through with your statement first?

Mr. PARKINSON. It does not make much difference to me. I was just coming to that enumeration.

Congress has prohibited the importation in foreign commerce, in the embargo acts, in the inferior grade of tea acts, in the various provisions excluding foreign convict-made articles, fur seal skins taken in violation of law, and eggs of game birds.

The CHAIRMAN. Did any of those get up to the Supreme Court under a contest as to the legislative power?

Mr. PARKINSON. The embargo acts were passed upon in the early history of the Supreme Court.

The CHAIRMAN. Directly?

Mr. PARKINSON. Directly, and in the case of——

Mr. DENISON. I understand embargo applies to exports instead of imports; is that right?

Mr. PARKINSON. In United States *v.* Marigold (9 Howard, 560), decided in 1850, quoting the language of the court:

> Since the passage of the embargo and nonintercourse laws and the repeated judicial sanctions those statutes have received, it can scarcely at this day be open to doubt that every subject falling within the legitimate sphere of commercial regulation may be partially or wholly excluded when either measure shall be demanded by the safety or by the important interests of the entire Nation.

The CHAIRMAN. What date was this?

Mr. PARKINSON. That was 1850.

The CHAIRMAN. Well, then, that would be a period between about 1812 and 1850, before judicial statement was made on the subject of the embargo acts.

Mr. PARKINSON. Oh, no; there had been previous decisions. That is just a summary by the Supreme Court of what it had held.

I take it, from what Gov. Kitchin said the other day, that most of the opponents of the constitutionality of the proposed legislation would be willing to admit that Congress has, as he puts it, I think, absolute power to prohibit importation. If it has that power, where does it get it, except from the power to regulate foreign commerce? He asserted, as many of the opponents of the constitutionality of this kind of legislation do, that there is a difference between the power of Congress over foreign commerce, and the power over interstate commerce.

Now, let us see what the Supreme Court of the United States says about that question. In Bowman *v.* Chicago & North Western Railway Company (125 U. S., 465), decided in 1888, the Supreme Court said, quoting their language:

> The power conferred upon Congress to regulate commerce among the States is indeed contained in the same clause of the constitution which confers upon it power to regulate commerce with foreign nations. The grant is conceived in the same terms, and the two powers are undoubtedly of the same class and character and equally extensive.

And again, in Crutcher *v.* Kentucky (141 U. S., 47), decided in 1891, quoting the language of the court:

> It has frequently been laid down by this court that the power of Congress over interstate commerce is as absolute as it is over foreign commerce.

Mr. DENISON. Is that essential to the decision, Doctor, there, or dictum of the court, in your judgment?

Mr. PARKINSON. I say they were not essential to the decision of the case, but that they do represent the right interpretation of the provisions of the Federal Constitution, I have not the slightest doubt.

I asked you a moment ago to exclude the fifth amendment, which protects individuals against deprivation of life, liberty, or property without due process of law, and to confine your attention to the nature and extent of the power of Congress over commerce, from the viewpoint of what is included in interstate commerce and what is the meaning of "regulate," and what is the relation of the Federal Government of the States under that power. From that viewpoint, leaving out of consideration the protection of the individual accorded by the fifth amendment, this declaration of the Supreme Court is absolutely the only interpretation of the power of Congress over interstate and foreign commerce. The power is granted in the same words, in the clause. There is nowhere in the Constitution any variation, any difference in the extent of that power, either over foreign or interstate commerce, and the power to prohibit importation in foreign commerce has not only been frequently exercised by Congress, and approved by the Supreme Court, but, as I say, Gov. Kitchin and like earnest opponents of the constitutionality of this legislation freely and absolutely admit it. In his own language the other day he said: "There can be no doubt that Congress could forbid the importation into this country of sound wheat from Argentina."

Mr. SMITH. Do you thing Congress could prohibit the shipment of farm products from one State into another?

Mr. PARKINSON. I prefer not to answer that very general question at this point. I have said that if you consider only the commerce clause, the power over interstate commerce is just as extensive as the power over foreign commerce. The difference between those powers comes when we consider the other provisions of the Constitution which relate to this question. Gov. Kitchin constantly in his argument the other day told you that the power of the Federal

Government over interstate commerce was exclusive and was limited only by other provisions of the Federal Constitution. He cited from decisions, and he read from Watson on the Constitution, constantly repeating that statement that the power over interstate commerce is limited only by other provisions in the Federal Constitution.

Mr. SUMNERS. Doctor, would it be interrupting you to observe that I did not so understand the Governor's argument?

Mr. PARKINSON. Not the slightest.

Mr. SUMNERS. I understand his argument to be that while the power of the Federal Government over foreign commerce was complete, the power of the Federal Government over interstate commerce was limited to the exclusion of those articles which are bad within themselves, and would not permit the Federal Government to exclude sound articles and articles which are harmless.

Mr. PARKINSON. That is quite true, but that is different, a step or two beyond the point I am now discussing. The point I was now discussing was the extent to which Gov. Kitchin had stated the doctrine that the power over interstate commerce was restricted only by what appears in other parts of the Constitution. You are referring to his interpretation of those other provisions of the Constitution, to which I am coming in a moment.

Before I proceed to that, I want to take up briefly another of his arguments, and that is with relation to the power which the State governments surrendered, and meant to surrender to the Federal Government when they adopted the Constitution, with the clause giving Congress power to regulate interstate commerce. He forcibly presented the facts with respect to the exercise that had been made by the individual States of their power to forbid importations and exportations. He said that very situation, that very power in the States had produced the state of confusion which made necessary the Federal Constitution, and that is quite true. Answering the question of the chairman, he admitted that the States, by adopting the Federal Constitution, transferred to the Federal Government all the power of that kind—I beg pardon, that the State governments gave up all the power of that kind which they had previously possessed, so far as it affected interstate commerce, but he denied that they had transferred that power to the Federal Government.

Mr. KITCHIN. Doctor, would it bother you to interrupt you there, with the permission of the committee? I may not have made myself clear on it. You are correct in the statement that I said they gave up that power over interstate commerce. My intention was to say that they gave to the Federal Government their power over commerce and limited that surrender to the Federal Government by the fifth amendment, and by the power reserved to the States, and my position was that the reservations in the Constitution, and the guarantee in the Constitution forbade the Federal Government, or the State government, from prohibiting the transportation in interstate commerce, of sound, healthful, fairly branded articles, and that the power is nowhere in this country to exclude, we will say, sound wheat from South Dakota from going into Missouri.

Mr. PARKINSON. As a matter of fact, the States adopted the Federal Constitution without regard to the fifth amendment. They adopted the constitutional provision transferring this power over interstate commerce to the Federal Government, and they did it in words which do not anywhere suggest the limitations upon their intentions, which Gov. Kitchin now suggests. They transferred the power to regulate interstate commerce. They kept to themselves, at least, none of the power which they had previously exercised. That they meant to transfer that power to the Federal Government in its fullness, and that they believed they had done so, by giving to the Congress the power to regulate interstate commerce is evidenced by that provision of the Federal Constitution to which I referred a moment ago, namely, section 9, of Article I, which says—

> The migration of such persons as any of the States shall think proper to admit shall not be prohibited by the Congress prior to 1808.

Now, if they did not believe that they had transferred to the Federal Government, under the commerce clause, the power to prohibit migration of slaves from one State to another, why did they put this negative provision into the Constitution? And it is the only other provision in the Federal Constitution directly referring to the power of the Federal Government over interstate commerce. Here is an express prohibition on the Federal Government effective until 1808 which negatives the power which otherwise Congress would have had under the commerce clause to prohibit the migration of slaves between the States. Chief Justice Marshall, in Gibbons *v.* Ogden, said:

> The section—

Referring to the section I have just quoted—

> which restrains Congress from prohibiting the migration or importation of such persons as any of the States may think proper to admit until the year 1808 has always been considered as an exception from the power to regulate commerce and certainly seems to class migration with importation. Migration applies as appropriately to voluntary as importation does to involuntary arrivals; and, so far as an exception from a power proves its existence, this section proves that the power to regulate commerce applies equally to the regulation of vessels employed in transporting men who pass from place to place voluntarily as to those who pass involuntarily.

Now, the interpretation which I am now making of this section was not before the court.

The Chairman. Will you read the section once again, please?

Mr. Parkinson (reading):

> The migration of importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808.

The Chairman. I have always in the past, without any effort at special discrimination, thought that meant foreign commerce with regard to the slaves. Do you consider it to mean commerce with regard to slaves between the States themselves?

Mr. Parkinson. I think it would no doubt be applied to it. The migration of such persons as any State shall think proper to admit shall not be prohibited by Congress.

Mr. Denison. Do you understand migration to refer to passage from one State to another?

Mr. Parkinson. Most assuredly I do. I am certain that if Congress had passed a law, for example, in 1800, prohibiting the migration from Georgia to New York of slaves, that this section would have been urged and applied against the constitutionality of that law. I think it is beyond doubt that it would have been so.

The CHAIRMAN. While we are on the topic, I ought to know, but I do not, and I ask for information, was the Missouri compromise act in effect a prohibition on the movement of slaves from State to State?

Mr. PARKINSON. In effect probably it was.

The CHAIRMAN. In the Dread Scott case did not the Supreme Court determine that the act was unconstitutional?

Mr. PARKINSON. No; it was not an exercise——

The CHAIRMAN. This is not in the nature of challenge, Doctor. I am asking for information.

Mr. PARKINSON. It was not an exercise of the commerce power that was involved in that case. Mind, I am not citing this provision of the Constitution as a proof that Congress has or has not the power to exclude from interstate commerce the products of child labor, but I am only citing it as refuting the argument that the States did not intend to give to Congress full and exclusive power over it which they had previously controlled themselves; but I say that this clause simply indicates, as Chief Justice Marshall says by implication, that the persons who adopted the Constitution understood that the commerce power, without this prohibition, would have given to Congress the power to deal with the migration of such persons as the States might choose to admit, and that is the only purpose of my referring to it at this point.

Now, I said a moment ago that there could be no doubt, under the language of the Federal commerce clause, and under the decisions of the Supreme Court, that so far as the commerce clause only is concerned there is no difference between the power over foreign commerce and the power over interstate commerce, and the oft-exercised and approved power to prohibit importation in foreign commerce is a precedent for the exercise of power by Congress to prohibit commerce in specified persons and things in interstate commerce, with this exception, and here is where the problem facing this committee, and facing Congress, and which will face the Supreme Court, arises.

While, as between the Federal Government and the States, Congress has full power and exclusive power over the subject of interstate commerce, as between the Federal Government and individuals, the fifth amendment to the Constitution of the United States protects the individual against deprivation of life, liberty, or property, without due process of law, and that provision applies as well to acts of Congress and the Federal commerce power as any other power which Congress possesses, and that is the provision which does not apply to foreign commerce, and that is where the distinction between foreign commerce and interstate commerce arises. It is not a distinction which affects the relations of the Federal Government to the States in controlling interstate commerce, but it is a distinction founded upon the guaranty to individuals within this country.

The effect of the fifth amendment on all the powers of Congress, not only on the commerce power, is to protect individuals against arbitrary, unreasonable governmental action affecting their property or personal rights, in just exactly the same manner that the fourteenth amendment protects individuals against arbitrary, unreasonable governmental action on the part of the States affecting personal and property rights. There is no difference between those two guaranties. They appear in the same part of the Constitution, the amendments to the Constitution. They both of them relate to guaranties afforded to individuals. One of them relates to and controls the Federal Government in its action with respect to individuals, and the other relates to and controls the action of the States.

Now, the effect of that provision as controlling the kind of statute which may be enacted by Congress is certainly no more restrictive than its effect as controlling the kind of statute which the States may pass. We all know that despite the due-process clause the States possess what we call a police power, possess a power to affect, to take away property rights, to restrict personal liberty in conditions making such restriction or deprivation reasonable and proper for the public health, safety, morals, or welfare. That is the doctrine of the polic power under which the State passes such legislation, notwithstanding the due-process clause of the Federal Constitution.

Mr. **Nolan.** Was it not passed upon lately by the Supreme Court of the United States in the California case, the woman's eight-hour law?

Mr. **Parkinson.** It was, and a very extensive police power recognized.

Mr. **Nolan.** And the right to differentiate?

Mr. **Parkinson.** The right to classify and differentiate between classes. The point I want to make here is that the due process clause in the fourteenth amendment has always been interpreted as permitting the States to enact legislation for the public welfare, under what is called the police power. The power of the States to pass that kind of legislation, notwithstanding the due process clause, is either, depending on which way you care to look at it, an exception ingrafted by the courts on the due process clause, or it is an assertion of inherent but not expressed rights of the States to legislate for the public good, notwithstanding this declaration in favor of individual rights. The due process clause in the fifth amendment, which requires Federal action, as it affects the individual, is balanced by an express power in another part of the Constitution, authorizing Congress to regulate interstate commerce. On the one hand you have the express power to deal with interstate commerce, coupled with a provision that in so dealing Congress shall not deprive any individual of life, liberty, or property without due process of law, and on the other hand, either an inherent right to legislate for the public good, coupled with the provision that in so legislating the States shall not deprive any individual of life, liberty, or property, or you have a provision that the States shall not legislate to deprive any individual of life, liberty, or property without due process of law, with a judicial interpretation ingrafted upon that provision to the effect that, despite this limitation, a certain indefinite power to legislate for the public good, known as the police power, is, notwithstanding, maintained by the States.

Now, in any event, the point that I want to make is this, that in determining how far Congress may regulate interstate commerce, and thereby restrict individual rights of property, or of liberty, notwithstanding the fifth amendment, the test is no more strict, the power is no more confined than is the State police power to do the same sort of thing within its sphere, notwithstanding the same sort of guaranty contained in the fourteenth amendment.

But I do not want to put the argument in favor of the constitutionality of this legislation on a discussion of general principles alone.

Mr. DENISON. Do you understand, Doctor, or is it your opinion that the Federal Government has the same inherent rights of police power that is recognized and accorded to the State Governments?

Mr. PARKINSON. No, I think they have no such inherent power. All the Federal powers are expressed. They have express power to regulate interstate commerce. That express power is in turn affected by the provision that in regulating interstate commerce, as well as exercising any other powers which the Federal Government has under the Constitution, it may not deprive of life, liberty, or property without due process of law. The difference between the police power of the States and the Federal power of Congress is that the one is generally not express and the other is an express power, qualified by a limitation. However, the Supreme Court has in recent cases frequently asserted——

The CHAIRMAN. Doctor, may I not say that some misnomer is implied in this matter? The police power of the State, after all, is an exception to the limitation on the State power. It is not a power in a positive sense, any more than it would be in this case. It is a question of whether the limitation of the State legislative power is applicable, and for various considerations they make an exception.

Mr. PARKINSON. That is true.

The CHAIRMAN. It is not a grant of power to the State in any sense?

Mr. PARKINSON. No, it is not. The point I want to make is this, that in interpreting the effect of the fourteenth amendment as restrictive of State action, the Supreme Court will not be more favorable to legislation than in interpreting the similar provision of the fifth amendment which restricts the express power of Congress to deal with interstate commerce.

As I was about to say, there are frequent statements in the recent decisions of the Supreme Court dealing with this commerce clause. Indeed it is stated that Congress has a police power under the commerce clause. Now, I think there is some misunderstanding and some misnomer involved in the application of the police power to the exercise of the commerce power. What is really meant in those cases is that Congress has the power under the commerce clause to regulate commerce in the interests of the public health, safety, morals, and welfare, and is not confined to the regulation of commerce to the interests of commerce, or its instrumentalities alone.

Now, as I said a moment ago, we might just as well get down to what has been done and approved by the Supreme Court, as the very best basis for judging what we can do on this proposed legislation. The Supreme Court of the United States has upheld the lotteries legislation, it has upheld the congressional legislation forbidding transportation of prostitutes, the Mann White Slave Act. In neither case was there any purpose of protecting commerce itself, or the instrumentalities of commerce. Those two acts were both upheld by the Supreme Court because the court held that the power to regulate commerce included the power to regulate it in the interest of the public safey, the public health, the public morals, and the public welfare. Now, you can quarrel with that all you please, but that is what the

Supreme Court of the United States has said. Those two acts were upheld because Congress has the power to regulate interstate commerce in the interests of the public health, public safety, public morals, and public welfare. Those two decisions are precedents in favor of this legislation, and we could stand on them, unless there is something in the argument that there is a distinction between legislation which regulates commerce in the interests of protecting the persons who receive the products transported at the end of their journey, and the legislation to regulate commerce in the interest of protecting some individuals or preventing some abuses which occur prior to the transportation.

I say that this whole argument comes down to where Gov. Kitchin put it the other day, to the question of whether these two cases are precedents in favor of this legislation, or whether there is a distinction which makes them useless as precedents, between legislation, which aims to protect the consumer, and legislation which aims to protect the producer. That is the situation in a nutshell. Gov. Kitchin read to you the other day from a book by Prof. Willoughby, of Johns Hopkins University, expressing the professor's belief that there was a distinction between the producer and the consumer in this respect. He stated to you at the same time that he understood Prof. Willoughby had changed his opinion, and he has. Here are his words with respect to that distinction.

Mr. Emery. From where?

Mr. Parkinson. From an unpublished memorandum:

> This distinction between conditions of production and purposes or methods of use of commodities, though a real one, will probably not be held controlling. In neither case has Congress a direct regulative power—over neither the conditions of production nor the mode or use of consumption. If, therefore, in either case the prohibition can be construed to be, in fact, a regulation of interstate or foreign commerce, neither the ultimate effect nor the legislative intent embodied in the law may be inquired into by the courts. In result, then, it is to be admitted that the lottery case is authority for the doctrine that interstate carriers may be prohibited from carrying, or shippers or manufacturers from sending, from State to State and to foreign countries, commodities produced under conditions so objectionable as to be subject to control as to their manufacture by the State under an exercise of their police power or of the character designed or appropriated for the use which might similarly be forbidden by law.

Prof. Goodnow, formerly professor of constitutional law at Columbia University, and now president of Johns Hopkins University, has equally emphatically stated his belief that there is no distinction between the protection of the consumer and the protection of the producer.

Now, I want to call your attention to this matter, because I believe it is of vital importance. Upon it depends the question of whether the lottery case and the white-slave case may be depended upon by this committee, by Congress, and eventually by the Supreme Court, as authorities for the constitutionality of this legislation.

Mr. Nolan. That was the same point covered in the recent decision of the Supreme Court in the prize fight film cases?

Mr. Parkinson. No; it was not.

Mr. Emery. Is the Congressman referring to the Mutual Film Co. *v.* the State of Kansas, just decided?

Mr. Nolan. Just here recently where they had to decide as to the right to send prize-fight films from one State to another, either Johnson and Jeffries or Johnson and Willard.

Mr. Emery. I think the question at issue, Mr. Congressman, in all those cases was the regulation of the State forbidding their exhibition.

Mr. Nolan. The transportation between States. You can exhibit them in a State in which they might be taken, but you can not transport them over the State line. Congress passed that law merely to prohibit the exhibiting of the Johnson-Jeffries prize-fight films at Nevada.

Mr. Parkinson. Let us consider for just a moment the real effect of the lottery and white-slave cases. The Supreme Court never upheld the lottery legislation because it was either aimed at or effective for the purpose of preventing a few individuals being affected in their morals by the purchase of lottery tickets. It never upheld the white-slave act because the act was aimed at or in operation would accomplish the prevention of certain practices at the conclusion of a journey, or because it would protect certain individuals who made that journey from practices that were detrimental to them. Neither of those decisions was based on the doctrine that it was a protection of a limited number of individuals who were immediately affected by the transportation or what happened at the end of the journey. The reason for the approval of those acts by the Supreme Court was that the transactions against which they were aimed violated the high standard of public morals and the high standard of public welfare which it is the duty of the Government to maintain.

It was not the individual consumers or persons affected at the end of that journey that Congress protected; it was the public welfare which found relation to the effect upon those consumers and those individuals. It was not the individuals who were transported in interstate commerce who were protected by this Mann White Slave Act; at least it was not the protection of those individuals that was of vital importance in the decision of the Supreme Court. It was the protection of the high standard and ideal of public morals and public welfare which these transactions violated. And so it is with all our police legislation enacted by the States and upheld under the fourteenth amendment. The test is not whether the legislation protects or benefits any individual or class of individuals. The test is whether the legislation has relation to the public health, the public morals, the public safety, and the public welfare, and unless the court can find a relationship between the benefit to the individuals and the public benefit, the legislation will not be upheld.

And so it is with this lottery case, and the Mann white slave case. Congress has the power to enforce what it believes to be a proper standard of public health, of public morals, of public safety, and public welfare, to enforce it by regulation of interstate commerce, and it does not make the slightest bit of difference whether the persons who are primarily engaged in the transactions which violate that ideal or that standard happens to be on one end of the line or the other end of the line. There is nothing in the power to regulate interstate commerce which grounds any such distinction, and the distinction, if it can be found at all, must be found in the fifth amendment. As I have said to you, the fifth amendment interpretation is wholly upon the relation of the practices aimed at and the public health, morals, welfare, and safety.

The very fact that most of the States have passed child-labor legislation shows that there is a demand for such legislation in the interests of protecting the public health, morals, safety, and welfare. The Supreme Court of the United States has upheld such legislation passed by the States under the fourteenth amendment. If Congress now declares that there is need of Federal regulation on this subject, because the States are powerless to fully prohibit child labor and trade in the products of child labor, so long as one or two States refuse to pass child-labor laws; if Congress declares that the continuance of child labor and trade in its products and the use of the instrumentalities of interstate commerce to find a market for those products.

If Congress declares that the continuance of the trade violates what Congress believes to be a desirable ideal and standard of public welfare and public health, will the Supreme Court of the United States undertake to review that declaration on the part of Congress?

Mr. SUMNERS. Might I ask you a question right there, Doctor? Upon review of this matter by the Supreme Court, to what extent would it inquire into the wisdom of the judgment of Congress, or would it undertake to go beyond the judgment of Congress at all, in your judgment?

Mr. PARKINSON. It would not undertake to go beyond the judgment of Congress unless the judgment of Congress was absolutely arbitrary.

Mr. SUMNERS. Absolutely what?

Mr. PARKINSON. Arbitrary. I do not believe the Supreme Court of the United States would ever permit Congress to do that which was purely and wholly arbitrary.

The CHAIRMAN. And not even then, unless they violated the right of an individual to life, liberty, and property.

Mr. PARKINSON. That is what I mean, Mr. Chairman. The fifth amendment to the Constitution would prevent any action on the part of Congress, even under the interstate commerce clause, which was arbitrary, confiscatory, and not demanded by those in the community. It is exactly the same test that is applied constantly in the State supreme courts and in the United States Supreme Court in the application of police power.

The CHAIRMAN. Doctor, is it not finally a legislative test and a sociological test, rather than a juridical test?

Mr. PARKINSON. It is, sir. Our courts have in the past exercised, and probably will in the future exercise, the power to determine whether or not the action of the legislative body be reasonable. That is the test. Police legislation is constitutional under the fourteenth amendment if it is reasonably adapted to correct evil conditions existing in the community. If it is very unreasonable, it is unconstitutional, which brings the whole matter down to the question as to whether a certain condition justifies legislative action.

Mr. SUMNERS. It would be construed in the light of the limitations upon the exercise of police power contained in the Constitution.

Mr. PARKINSON. Similar limitations are contained in the due-process clause of the fifth amendment—not the same, but similar, provisions—that Congress, in its exercise of power, shall not deprive any individual of life, liberty, or property without due process of law.

The CHAIRMAN. May I ask you a question now, Doctor? Would it be your idea that the life, liberty, and property limitation applying to that power under the Federal Constitution would also apply to the regulation of foreign commerce, denying citizens, for example, the right to ship to some other nation an inoffensive article or purchase from another nation an inoffensive article?

Mr. PARKINSON. I believe the Supreme Court would hold that there was no vested right in an individual to deal in foreign commerce.

The CHAIRMAN. Then that would afford a ground of distinction between the foreign power under this clause and the domestic power.

Mr. PARKINSON. I think that is the distinction which runs through, and the only distinction. If there is not this distinction, then the precedents under the foreign-commerce clause are absolutely applicable to any regulation or prohibition of interstate commerce, because there are different conditions between them, except as the fifth amendment may affect them.

Mr. SUMNERS. Doctor, will you pardon me a moment? I do not like to interrupt you any more than necessary, but this is to me a very important point. I understand you to state, and I think we all agree, that in the exercise of the control of Congress over foreign commerce there is no limitation, and here in this country it is limited by the fifth amendment and further limited by the restrictions ordinarily placed upon the exercise of police power. That is the point I did not quite get clear.

Mr. PARKINSON. The police power of the States is an exception to the restriction upon the States contained in the fourteenth amendment.

Mr. SUMNERS. Yes, sir; I know that.

Mr. PARKINSON. The power of Congress to deal with the subject of interstate commerce is restricted by the fifth amendment in the same manner that the power in the States is restricted by the fourteenth amendment. Now, the only value of referring to the police power at all is this: That where the courts have accorded to the States a power which is generally called the police power to regulate for the public good, notwithstanding the fourteenth amendment, they will certainly accord to Congress the right to exercise its express power to regulate interstate commerce for the public good, notwithstanding the restriction of due process in the fifth amendment. That is the only valuable point.

Mr. SUMNERS. Now, my original question was whether or not in the exercise of this power by Congress it would be restricted to the restrictions which will ordinarily limit legislative bodies of the State in the exercise of police power? In other words, it has got to be reasonable?

Mr. PARKINSON. I think that is true.

Mr. SUMNERS. Now, let me get it right clear. Your position is that Congress has unlimited power with reference to interstate commerce transactions between the States, except as it is limited by the article in the Constitution to which you have referred?

Mr. PARKINSON. Yes, sir; that is right.

Mr. SUMNERS. Then when Congress comes to exercise that originally unlimited but later restricted power it must still exercise it under the general limitations that govern in the exercise of police power by any sovereign.

Mr. PARKINSON. That is precisely right, for the reason that the courts will interpret due process as meaning the prevention of arbitrary action. So we want to make it perfectly clear that we do not feel called upon in support of this legislation, and we feel that you are not called upon, and certainly the Supreme Court of the United States when it faces this question, if it is presented to it, will tell you that it is not called upon to determine the question of arbitrary power on the part of Congress to prohibit anything from using the facilities of interstate commerce. I think that is where much of Mr. Emery's argument the other day lost its point. In order to sustain the constitutionality of this child-labor legislation we do not have to show any arbitrary power in Congress to exclude anything that Congress pleases to exclude from interstate commerce. On the contrary, we say that the power to exclude is absolute except as restricted by the due process clause of the fifth amendment, and that means that the exclusion or prohibition must be reasonable.

If it is unreasonable or confiscatory the Supreme Court of the United States will unquestionably declare it unconstitutional, just as it declares police legislation unconstitutional when enacted by the States under circumstances which are without reason or justification. We say that there is reason and justification for this legislation, found in the fact that in the greater part of the country such legislation has already been passed, though it is ineffective to prevent interstate trade in products of child labor. On that point I desire to call your attention to the Adair case, where the Supreme Court held unconstitutional State legislation which forbade an employer to refuse to employ or discharge an employee because of his membership in a trade-union.

Mr. EMORY. I beg your pardon, Doctor. You did not mean State legislation?

Mr. PARKINSON. No; I beg your pardon. They held unconstitutional a law which forbade the employer to discharge or employ an employee because of his membership in a trade-union. The Supreme Court in holding that unconstitutional said this very significant thing—no, I beg your pardon, it is contained in the case of Coppage *v.* Kansas, referring to the Adair case:

> The decision in the Adair case is in accord with the almost unbroken current of authorities in the State courts. It is not too much to say that such laws have by common consent been treated as unconstitutional.

So in this case the Supreme Court could, and probably will, say that the very fact that these child-labor statutes have been passed in various parts of the country indicate that they are reasonable regulations on the employer dealing with his employees, of his rights of property, and of the employees' liberty of contract.

Mr. KEATING. Professor, may I interrupt you just a moment? Congressman Smith asked you a question a few moments ago, and I thought possibly that you would now feel that you were in a position to answer it. That was the question as to whether Congress could prohibit the transportation of sound wheat from the State of Minnesota to the State of Kansas. You would not hold that that was a reasonable exercise of the power vested in Congress, would you?

Mr. PARKINSON. Congressman, at this stage of the learning on the subject I should be obliged to take refuge in that portion of Judge Harlan's opinion in the lottery case, in which he said—

> That matter is not now before us. We will not undertake to lay down a general rule which will settle all such cases until they arrive. Each of them must be determined upon its peculiar facts.

You can readily see that this is true. The power is, as I have said, general and unrestricted except as is restricted by the due-process clause, and the interpretation of that clause is and always has been a question of whether regulation is a reasonable or unreasonable interference with the rights of liberty and property in the interest of the common good.

If it is reasonable it is constitutional; if it is unreasonable it is unconstitutional. It is impossible to determine now general supposed cases which have never arisen. They must all be determined in the light of their facts and conditions which have developed around the transactions which Congress seeks to regulate. But if it is true that the action is arbitrary, and certainly as the question is now presented to me that sounds like an arbitrary regulation, it would be unconstitutional.

The CHAIRMAN. Of course, it is impossible now to conceive of any rational object that could be accomplished by prohibiting the movement of sound wheat from one State to another.

Mr. PARKINSON. That is precisely so.

The CHAIRMAN. But if a state of affairs developed, now inconceivable, that would make it rational, as in the lottery case, for example, then you would want to have the reserve that Judge Harlan took; is that your position?

Mr. PARKINSON. Exactly. Now, Mr. Chairman, this is, as Gov. Kitchin said the other afternoon, a doubtful and indefinite field. The Supreme Court has constantly said that it is impossible, in drawing the line as to what is and what is not due process, to make it straight at once. The only way that you can make that line straight is by fixing its points first on one side of the line, constitutional, and on the other side of the line, unconstitutional, so that the line gradually tends to straighten and become definite. But until we have had a number of these cases before the courts we can not draw a straight and fixed line and say, "This is due process and this is not." I am going to use Gov. Kitchin's simile the other afternoon when he was stating the difficulty of fixing the exact age of children. He said it is difficult to distinguish between a pig and a hog, and it is. But I tell you, gentlemen, that when it comes to this legislation which regulates private property in the interest of the public good, it is difficult to determine when the pig has become a hog. There is no question of the power of Government to step in and level the advantages and take from him who claims and exerts too much of property and influence in favor of him who has little or none.

Mr. DENISON. You think that the Supreme Court will take notice of the fact that the different States have enacted similar laws?

Mr. PARKINSON. Yes, sir.

Mr. DENISON. Now, will it take notice of the fact that most of the laws are different, Doctor? What will it do when it considers the difference between those varying sentiments in the different States?

Mr. PARKINSON. I think that when the Supreme Court faces this problem, finding that a number of States have enacted child-labor legislation, with the declaration of Congress that this particular legislation is desirable, that these are the proper standards, that the United States Supreme Court will never undertake to question the decision of Congress, based upon experience throughout the country. The mere fact that there is a difference between the various States in the standards which they have set will not induce the Supreme Court to say that Congress has been wrong in compromising those standards and setting its own standard.

Mr. DENISON. Then, if we should change the limitation in this bill and make it higher, notwithstanding the sentiment in all of the different States, you think that the court would——

Mr. PARKINSON (interposing). I do not quite get your question.

Mr. DENISON. If we could change the standard of age in this bill and put it higher than that recognized in the different States, the court would consider the judgment of Congress rather than the sentiment in the different States?

Mr. PARKINSON. Up to the point that the test is always reasonableness. If Congress put the age limit so high as to be entirely out of proportion to what the experience of the past has justified, then they would inquire into the question of the reasonableness of the congressional regulation. That is and always must be the test, whether it is unreasonable or arbitrary, or whether it bears real relation to the public health, to the public safety, and to the public morals. If the Supreme Court of the United States was confronted with a statute containing an age limit of 18 years, the question before the court would be whether the prohibition of the interstate shipment of the products of labor of children under 18 years of age was justified by a reasonable demand in the interest of the public health and public welfare of preventing the labor of children up to 18 years.

Mr. DENISON. Now, you think that is a question of law and not of fact, do you, doctor, and that it would be so construed by the Supreme Court?

Mr. PARKISON. I think it is a question of law and fact. Ultimately it is a question for the court. There is no doubt about that fact. The court will take the judgment of Congress unless the court is convinced that Congress has acted arbitrarily and without sufficient justification. The line can not be drawn very accurately within those limits.

Mr. KITCHIN. Doctor, of course, if you have not considered this subject about which I desire to ask you, I can strike out the question, but I want to ask you this: From your observation do you think at this time that Congress would have the power to exclude from interstate commerce the products of certain countries on the ground that the labor employed worked over 10 hours a day?

Mr. PARKINSON. I have not given particular consideration to that problem, and, as I said a moment ago, the question can not be satisfactorily considered even, let alone satisfactorily answered, until the particular conditions calling for such legislation and the particular legislation are before us. I do not think it is possible. I do not think it serves any useful purpose whatever to lay down any general rule to solve all the possible cases which could arise under this power of Congress to exclude certain things for certain specified reasons from interstate commerce. I just want to say a word as to the danger of such legislation interfering with the balance of power between the Federal Government and the States. In the first place, the argument founded upon that clause of the Constitution which reserves to the State all powers not granted to the Federal Government falls of its own weight. It is arguing in a circle, because it depends upon prior consideration of what powers have been granted to Congress. Nothing is reserved to the States except what has not been granted to Congress. Your first question is, therefore, what was granted to Congress under the power to regulate interstate commerce, and that clause which says that all powers not granted to Congress are reserved to the States throws absolutely no light on the extent of the commerce power of Congress. You have got to determine that question without reference to the reservation of power to the States. Now, recent Congresses have not hesitated when conditions demanded it to extend the power of the Federal Government by one means or another.

A few years ago Congress passed the Esch phosphorous match tax. That was a tax on poisonous phosphorus, and its unquestioned purpose was to tax out of existence poisonous phosphorus and to prevent the industrial disease known as "phossy jaw," which resulted from employees coming in contact with the poisonous phosphorus, and a condition which was wholly local, wholly intrastate, and wholly a condition of manufacture. Congress interfered to accomplish what otherwise would have been left to local regulation, because all parties agreed that this vile disease should be driven out of the country, and the most economical and effective way to do it, not only from the point of view of the Government but from the point of view of the employers, was by Federal action. The power on which Congress based that action was the taxing power. They placed the tax so high as to make it impossible to use the poisonous substance in the manufacture of matches. No revenue is derived from the tax because the stuff has ceased to be used. It is unprofitable to use it. It is wiser and more profitable to use a substitute for it. Notwithstanding the declarations in party platforms, to which your attention has been called, the Democratic Party has not hesitated in the last year or two to enact and put on the statute books similar legislation based on the taxing power, the purpose of which was precisely the same. Congress taxed out of existence undesirable cotton future contracts, though it could not directly regulate the making of a cotton future contract. Congress has undertaken to tax out of existence dealing in opium, though it can not directly regulate that traffic.

Now, it matters not that this power has been exercised under the taxing power. Of course, it is true that the Supreme Court has accorded to that power a very wide and unlimited scope. I am not citing these as instances which prove the power of Congress to prohibit the products of child labor from interstate commerce, but I am citing them as instances of the exercise by Congress of the broad powers accorded to Congress by the Constitution for the public good to accomplish purposes which are clearly local, but which cannot be effectively accomplished by the States. There is involved in this instance of the Federal power no real danger to these concrete cases. They do not necessarily stand as precedents for future extensions. They simply mean that Congress, when occasion demands it, may exercise its great powers, and you may depend upon it that Congress will not foolishly pass, without reason, some of the suggested legislation which might by possibility be introduced, on the basis of and analogous to this child labor legislation.

The CHAIRMAN. Doctor, at this point let me ask you this question: Suppose Congress fixed an age limitation of 14 years. The public conscience of the State in the course of time or to accomplish some ulterior object, say educational, would want to make it 16 years. In your opinion, would the fact that Congress had acted on the subject matter with a 14-year limitation prevent the State from making it 16 years?

Mr. PARKINSON. Oh, not in the slightest. I think the question as to what is a proper limit for the entire country, taking into consideration the conditions in the different parts of the country, would not be entirely conclusive as to what would be a proper limit in a particular State, taking into consideration the different conditions in that particular State.

The CHAIRMAN. You think, then, that the rule would not be exclusive even if it were Federal?

Mr. PARKINSON. I think that is true.

Mr. KITCHIN. You do not mean to admit that Congress would have the power to fix labor and age limits in the States?

Mr. PARKINSON. Not at all; no. I mean that the fixing of an age limit in interstate commerce would form the basis for State age limits.

The CHAIRMAN. Well, the action of the States would apply to both.

Mr. ALMON. Is it not doing something indirectly that can not be done directly?

Mr. PARKINSON. That is true, yes. But that is something that the Congress frequently does. It did it in the Esch bill; it did it in the cotton-futures bill; it did it in the match-tax bill; it did it in the oleomargarine bill; it did it in the lottery case; it did it in the white-slave case, and I think it is rather interesting to find that a bill has been introduced by the chairman of the Interstate Commerce Committee of the House which proposes to do it in another bill. That bill provides that no person shall ship in interstate commerce, for the purpose of slaughter, bull calves less than 2 years of age, or heifers less than 7 years of age. I presume the chairman of the Interstate Commerce Committee of the House believes that that bill will be constitutional. Now, there is nothing involved in that legislation for the protection of the consumer.

Mr. SMITH. Seven years makes a pretty old heifer, does it not?

Mr. PARKINSON. It does indeed, for the purpose of slaughter. A bull of one year and a half is quite as good as one two years or seven years of age. The only relation of that legislation to the protection of the consumer is that which someone suggested to me the other day when I spoke to him about the bill, namely, that it protects the ultimate supply, and so does this proposed child-labor legislation. It protects the ultimate supply.

Mr. LONDON. Doctor, in the Esch match case did not Congress undertake to protect the producer and worker in the industry?

Mr. PARKINSON. In which legislation?

Mr. LONDON. In the Esch match law.

Mr. **Parkinson**. It did.

Mr. **London**. So that Congress used its power to protect the worker in the industry?

Mr. **Parkinson**. No doubt it did.

Mr. **London**. And there the question of child labor was not involved?

Mr. **Parkinson**. No, sir.

The **Chairman**. The fifth amendment was not involved either, according to the argument?

Mr. **London**. I mean the fifth amendment did not prohibit that legislation.

The **Chairman**. But it was not considered applicable to the statute.

Mr. **Parkinson**. Mr. Chairman, I should hate to argue the constitutionality of one of those match bills against Mr. Emery, and hope to get away with it without his suggesting that the fifth amendment was involved.

Mr. **London**. The fifth amendment is really a part of our bill of rights.

The **Chairman**. The taxing power is not only subject to the fifth amendment——

Mr. **Emery** (interposing). I wanted to suggest one thing. Does Mr. Parkinson intend to suggest to the committee that the limitation upon the taxing power in the Federal Constitution is identical with the limitation upon the commerce power?

Mr. **Parkinson**. I do not, but I do believe that if we should pass this child-labor bill——

Mr. **Emery** (interposing). Does it indicate anything to you that Congress used a broader power for the purpose of excluding phosphorous matches than perhaps the narrower one that you have indicated?

Mr. **Parkinson**. It indicates to me only the purposes for which I presented it, that there should be no great concern over introducing the Federal power into a field which has been heretofore completely handled by local legislation. I only cite those match cases, saying specifically that I do not cite them for the purpose of showing the constitutionality of this legislation, but merely to show that Congress has invaded the local field to accomplish a regulation in favor of the producer.

Mr. **Emery**. Will you pardon me there? I want to ask a question, just for my own information, without interrupting you. You made a suggestion in response to an inquiry as to the comparative reasonableness of such regulation, as to changes that might be made by the States with reference to labor or anything else, or things that might be made by the Federal Government, the gentleman before me suggesting that the Federal Government might put the age limit up instead of down. I want to ask if that indicated that you thought that the comparative reasonableness of Federal as against State legislation with reference to some subject over which the Federal Government had control, like commerce, was to be considered in fixing the relative jurisdiction of the two. Would it make any difference how reasonable a State regulation was if the subject matter was one wthin the Federal jurisdiction in considering whether the Federal Government would take charge of it?

Mr. **Parkinson**. No; I think not at all.

Mr. **Emery**. Take for instance a passenger train operating in interstate commerce——

The **Chairman** (interposing). How much more time do you think you will need?

Mr. **Parkinson**. About two minutes, because this is all I am going to say.

Mr. **Keating**. May I ask a question?

The **Chairman**. All right.

Mr. **Keating**. Would the Supreme Court be likely to consider the fact as was testified to before this committee at the last session of Congress that in States containing an absolute majority of the population of the entire country standards identical with those set up in this bill have been enacted into State laws for the purpose of governing child labor—would that be considered as evidence that the regulation set up in this bill was reasonable?

Mr. **Parkinson**. I think the Supreme Court might give some weight to all those considerations, but no one could tell how much weight they would give them. Now, in consideration of the precedents which have been or which may be presented for your consideration on this question, I ask you to consider the importance of keeping always in mind this distinction: One set of cases dealing with what is interstate commerce and what are its limitations. Those are cases like the employers' liability cases, the safety appliance act cases, and all those cases which involve the question of whether interstate commerce extends to the point of manufacturing within the State, whether it extends to the point of regulation of the contract of employment between the employer and employee, when the employer is engaged in interstate commerce, whether interstate commerce extends to the point of compensation for accidents which occur while employees are engaged in interstate commerce—the question, I say, in those cases is what are the limits of interstate commerce? The question there is the same as the question here would be if this child-labor act undertook to say that employers who intend to ship their products into interstate commerce shall not employ children under 14. This legislation does not attempt to say that. An employer may, if he chooses, employ children under 14 and sell the products of their labor wherever he can so long as he does not make use of the instrumentalities of interstate commerce. That is all this legislation does. Those cases which involve the question of what are the limits of interstate commerce are not precedents in the consideration of this subject, because nobody doubts that the shipment of products between States is interstate commerce, and the question here is not, what is interstate commerce, not what are the limits of interstate commerce, but, first, does regulation include the power of prohibition and, second, if it does how far has the individual a right under the fifth amendment to assert that the power over interstate commerce shall not be exercised in a way to deprive him of life, liberty, or property? I think that is all I have to say.

Mr. **Emery**. I would like to ask a question, if I may. Is not the inspection that is sought to be conferred upon the Secretary of the Treasury predicated upon the fact that the goods which he is to inspect are being prepared for interstate commerce, because that is where the question of intent arises?

Mr. PARKINSON. But the question of inspection to carry out the purposes of legislation which is otherwise proper, which is clearly incidental, has been passed upon by the Supreme Court of the United States in this way: The Supreme Court has always held that where otherwise the power is in the Federal jurisdiction, that the exercise of inspection and such like powers to accomplish the purposes of the legislation is quite constitutional.

The CHAIRMAN. Doctor, before concluding the committee will have to indulge me for a moment. There is a clause in this bill setting up a rule of presumptive evidence, and Mr. Emery addressed the committee the other day in my absence, and I did not have the benefit of his argument. You have not discussed that feature of the question at all. Have you anything to say upon that point?

Mr. PARKINSON. Mr. Chairman, of course the purpose of the provision is this: It is an extremely difficult thing to prove the substantive offense in the first section of this bill—namely, that the goods intended to be shipped were produced by child labor. Now, if the Congress passes this legislation, undoubtedly Congress wants to put sufficient teeth into it to make it prohibitory, so that if it is violated proof of violation can be obtained and established and a conviction be had. Now, it is extremely difficult to prove that particular goods in a particular shipment were produced by child labor. This is a substitute for a number of other proposals, such as prohibiting the shipment of the products of plants in which child labor was employed at or about the time of the establishment. The purpose of this presumption is to enable the prosecution to rest with proof that at or within 60 days before the time of shipment or production or manufacture, children were present.

The CHAIRMAN. I direct your mind to the difficulties I had in mind. Under the Federal Constitution there is the guaranty of due process of law, for example, and then the guaranty that no man can be proceeded against criminally except after indictment by a grand jury, and other guaranties. Would there be difficulty or doubt in shifting the burden of proof in a criminal case from the Government to the defendant? That subject, I have no doubt, has frequently come up, I do not know whether in Federal jurisprudence or not.

Mr. PARKINSON. It is not an unusual thing to put a prima facie clause of this kind into a piece of legislation. It has been most usual in those cases which involve intent. A similar prima facie clause is now inserted in the Administration bills dealing with the question of flooding our markets with the products of foreign goods after this war may be terminated. It is contained in one or two of the Federal acts which have been passed in recent years. It does not deprive the accused of any right which he has under the Constitution. It does not shift the burden of proof. All it does is this: It means that when the district attorney produces proof of the facts stated in the prima facie clause, then the defense must introduce testimony. That is all it does. The burden of proof is still on the prosecution to prove beyond a doubt the commission of the offense; but it does necessitate—and that is all it does—the defense submitting proof when the district attorney has shown that within a period of 60 days from the production or manufacture of the goods a child was present at the place of manufacture or production.

The CHAIRMAN. Now, this is a general thought and very superficial. Defendants usually have a constitutional right to abstain from testifying. I may be wrong about that, but anyhow it is a statutory right. Would this invade that right?

Mr. PARKINSON. Not at all. The point is that no unfair deduction shall be drawn from the failure of the defendant to testify, but he has no constitutional right to refrain from testifying, or producing witnesses to show that he had not committed a crime. He has only a constitutional right to escape any unfair deductions that may be drawn from his refusal to take the witness stand. The purpose of such a provision as this is so that when the district attorney has put up a prima facie case, then the defendant shall submit his testimony. Now, the only unfair inference that may be drawn from that is that it might be inferred that the defendant had violated the law because some boy who may bear no relation to the mill happened to be present when the goods were produced. You know very well that no district attorney would proceed with a case like that if the evidence showed that a messenger boy was present and had no connection with the mill. If a district attorney did proceed with such a prosecution, there would be no conviction by the court or jury. District attorneys have no time to waste very foolishly in things of that kind. We ought not to accede to extreme suggestions of possible hardships, when by so doing we may take the teeth out of the act.

Mr. DENISON. Doctor, I happen to be a lawyer, as you may know, and the universal rule is that when the State or the prosecution introduces the proof of a prima facie case, the defendant is guilty, and the burden is then upon him to come in and prove himself not guilty. That is the way I understand it.

Mr. PARKINSON. The burden has not changed. The burden is not upon him to prove himself not guilty, but the burden is upon him to produce testimony. Now, if he produced any testimony it simply would be that children did not work in that plant. Then the question is for the jury to determine whether or not the children did work in that plant on these particular goods.

Mr. ALMON. He must overcome the prima facie case that has been made out by the prosecution.

Mr. PARKINSON. Yes, sir; but the burden is still on the prosecution to prove its case beyond a reasonable doubt.

Mr. DENISON. It puts upon the defendant the necessity of proving himself not guilty.

The CHAIRMAN. Do the courts distinguish between the legislative power of shifting the burden of proof in civil cases and in criminal cases?

Mr. PARKINSON. Not so far as I have observed. I can show the committee similar provisions in recent statutes. The point where the presumption becomes dangerous is where it is conclusive. That may be in the minds of some of the members of the committee. In that case you are taking away from the defendant a constitutional right. The courts will not pay any attention to that.

Mr. SUMNERS. There is no question about that.

Mr. PARKINSON. But when it is a prima facie presumption the courts have always sustained it, and the only question about it is the importance of taking out of the prima facie clause the difficulties of proof, because otherwise they are useless; their only usefulness is to make out a prima facie case which can go to the jury and which will oblige the defendant to bring in his testimony in rebuttal.

Mr. DENISON. Of course, I realize that there is some purpose in having legislation to make out a prima facie case. I want to be sure that we do not embody anything in this bill which would vitiate the bill if we do report it. Now, this provision that a prima facie case must be reasonable will be passed upon by the court in looking into the validity of it, do you think?

Mr. PARKINSON. Well, I think that is probably true.

Mr. DENISON. Now, we will have to admit that these factories in the Carolinas, if they want to employ child labor for the manufacture of goods to be used within their own State, can employ child labor for that purpose in contravention of the provisions of this bill, can they not?

Mr. PARKINSON. Yes, sir.

Mr. DENISON. And if they had children in their factories, say, working part of the time manufacturing goods to be consumed in that State, yet if it is within 60 days prior to the shipment of goods in interstate commerce, that company will have to come in and answer to an indictment, even though those children are used in the manufacture of goods for intrastate sale and not for interstate sale. Is that true?

Mr. PARKINSON. That is true.

Mr. DENISON. So that the effect will be that the company could not safely use child labor for the manufacture of goods at all for use inside of the State, could they?

Mr. PARKINSON. They could only do it under circumstances where they could prove that those children had not labored on those particular goods, and it is easier for them to prove that than it is for the district attorney to prove the other side of the controversy. I think Congress has the right to say that because of the class of proof involved in putting the burden upon the district attorney to show that the goods were produced by child labor in a particular shipment we are going to put the burden of proof on the man who can best obtain and produce it. If the employer can so keep his records and so keep his affairs, if he is honestly obeying this law—while he can exercise all the requirements for the employment of children under the State law, he can prove to the satisfaction of any jury of men in his own district that he has not violated this law. I say that Congress has a perfect right to put that burden where it can be easily carried. I do not think it would result in danger to the law. I think, of course, it is possible that the prima facie provision could be so unreasonable that it could be considered by the courts unconstitutional, but not on the ground that we have been discussing.

Mr. DENISON. You do not think that if these companies who may be manufacturing goods for home consumption as well as interstate commerce are subjected to this danger now and the liability and probability of indictment and being brought to the expense and annoyance to trial, that a trial would be unreasonable?

Mr. PARKINSON. I do not.

Mr. EMERY. May I ask you whether or not you conceive that the guaranties of due process will apply to trial and conviction or apply equally to immunity from arrest and prosecution?

Mr. PARKINSON. Well, Mr. Emery, the district attorney and the police officers always have the power in their discretion to arrest anyone whom they believe to be guilty of a violation of the law.

The CHAIRMAN. Are you through, Mr. Parkinson?

Mr. PARKINSON. Yes, sir. I thank you all very much. That concludes the hearing on the subject, I understand.

The CHAIRMAN. There are certain things to be filed here. The committee can determine what is to go in the record.

Mr. McKELWAY. I think I obtained permission yesterday, upon the understanding that I might make a statement. I do not want to make it orally, but I want to file a statement and argue the testimony taken this year and last year.

The CHAIRMAN. You have no new testimony, just notes on the testimony as adduced already?

Mr. McKELWAY. Yes, sir.

Mr. NOLAN. I desire to put in the record certain clippings from the Anderson (South Carolina) Farmers' Tribune of Tuesday, January 11, 1916, on the subject of child labor; also a declaration on child labor by the South Carolina conference for social service, Raleigh, February 13 and 15, 1914.

The CHAIRMAN. Unless objected to they will be incorporated in the record.

(The papers referred to are as follows:)

CHILD LABOR LAW MAY BE AMENDED.

Several important recommendations for changes in South Carolina labor laws are contained in the report of Commissioner Watson, who is charged with the enforcement of these laws.

Among the more important recommendments are:

That the 60 hours per week law relating to the textiles be amended in such a manner as to make it conform to changed mechanical conditions and be "susceptible of both understanding and enforcement."

That the child labor law be amended so as to permit no child under 14 years of age to be employed under any circumstances.

MILLS WORK OVERTIME.

Some operatives of the Anderson mills called at Farmers Tribune Saturday and asked that we call attention to the fact that that mill was daily violating the laws of the State by working the operatives overtime. "While we are not required to start work until 15 minutes after the wheels start, yet if we do not take up our work 15 minutes before the appointed time, the work is so torn up that it requires half a day to straighten out the mess," said one of the operatives. "Of course," continued this operative, "we do not get pay for straightening up this work, and therefore rather than lose several hours straightening up what the machines have messed up, we go to work 15 minutes ahead of time in the mornings and at noon, which allows us only 30 minutes to get home for dinner and back to the machines. Those who work by the day are also required to work overtime, which amounts to about a half a day during the week."

CORPORATION, NOT STATE OFFICERS.

The other day we had an interview with a prominent attorney regarding the cotton mill deputy sheriffs in the State. He said: " I don't believe in these mill village police being hired and paid by these mill corporations, as they are more bound to serve for the corporations than the general public, as their service is better in the interest of where their salary comes from, than anywhere else. While these are supposed to be State officers, they don't serve the State, only in the interest and by their commands of the corporations—he is not independent."

He further stated, regarding the Freez riot: "The mill police, Mr. Justice, seemed to stand around with his hands in his pockets, only doing what the mill management told him; otherwise he would have prevented the riot if he had been acting independent."

" Think the legislature could change this law, that all State officials should be paid by the State, and not some public corporation to pay and use them in the interest of their individual welfare." (Home Circle.)

THE REASON WHY.

Little babies thrown out into the streets, together with household effects. Can you imagine the cause? Not for a crime; not for lack of industry; not for lack of efficiency in work; not for lack of morality, because the religious pictures that were hanging on the walls with this inscription: "Jesus is the Head of This House;" that proves these people were religious. Well, what? Why were they thrown out into the street? Because the workers joined a labor union; and this is the punishment decreed and operated by capital. Just because a man exercised his rights of citizenship—independence—he must be thrown out of a home, and these little babes must suffer.

Thrown out by Judson mills just because they would not yield to slavery and ignorance, and domination of capital. (Home Circle.)

THE MILL PEOPLE ARE OVERWORKED AND UNDERPAID.

" I have cut off like a weaver my life." (Isa. 38:12.)

Isaiah being a prophet, God revealed to him, 2,626 years ago, how the employees of cotton mills would be overworked. And knowing from his own personal experience that overwork would rob a man of many years of his life, he exclaimed " I have cut off like a weaver my life."

The mill owners try to justify themselves for forcing the weavers to run so many looms at starvation wages, with the plea that automatic machinery is so expensive. However, they can not justify themselves with this flimsy excuse, since you can buy the best automatic plain looms on the market for $137 to $140. You can buy the automatic drill looms for $140 to $155.

I have been in some mills in the South where one weaver was running 30 looms. I know of other mills where some weavers run as high as 36 looms each. No weaver on automatic looms should run over 16 looms for $2 to $2.50 per day.

Weavers on automatic looms have to work much harder than weavers on other looms, because they are much worse overloaded than weavers on other looms.

Where weavers run 6 to 10 common looms, they now run from 16 to 36 automatic looms for about the same pay.

In a mill with good managers, the profit runs from $25 per year per common loom and upward. It varies with the scale of wages paid; automatic looms $59 per year.

This week I was informed by good weavers in Greenville, S. C., that good weavers could not average over $10 per week on 20 looms. My informants have run as high as 28 looms, but had to drop back to 20; they said they had to work too hard to run 20 looms.

For example, a weaver runs 20 looms for $10 per week, or $520 per year; the company makes $59 per loom per year, or 20 times $59, which is $1,180 per year on the 20 looms. In other words, the weaver's labor produced $1,700 in one year; the weaver receives $520 and the company $1,180.

STEPHEN MERCER.

NORTH CAROLINA CONFERENCE FOR SOCIAL SERVICE.

[Raliegh, Feb. 13–15, 1914.]

DECLARATON ON CHILD LABOR.

We deplore the exploitation of childhood and the fact that in the employment of young children as wage earners our State is one of the chief offenders.

We indorse the uniform child-labor law, and in particular we demand and will seek for the enactment of such laws as will—

1. Forbid the employment of children under 14 years of age in mills, factories, workshops, stores, hotels, and other similar places.
2. Forbid the working of any child under 16 years of age for more than 8 hours in any one day, or on Sunday, or later than 7 p. m. or earlier than 7 a. m. at those places named in No. 1.
3. Forbid the employment of any child under 16 years of age to be worked at any place or occupation declared by the State board of health to be dangerous to life or limb or injurious to health.
4. Forbid the employment of any child under 14 at any work during the hours when the public school is in session.
5. Forbid the employment of any child under 14 as messenger boy in cities and towns of more than 5,000 inhabitants, and forbid the employment of any child under 16, preferably 18, as messenger boy after 10 p. m. or before 7 a. m. in cities and towns of more than 5,000 inhabitants.
6. Forbid the employment of any child under 16 at any of the places named in No. 1, except with a permit issued in a regular way after evidence of age has been offered.
7. We favor the passing of such laws as will place the enforcement of our child-labor legislation under the department of labor and printing and will specifically charge the commissioner of labor and printing with the duty of enforcing these laws, and of making all necessary rules and regulations. of keeping a record and reporting all children under 16 years of age who are at work, and of making full and accurate reports upon industrial conditions.

In order that the commissioner of labor and printing may do this work we shall ask that he be provided with sufficient money for the employment of as many inspectors as shall be found to be necessary for the enforcement of all laws to the employment of children, and such other laws as shall be found necessary for the protection of the health and the life of all workers.

We recommend that the compulsory educational law be raised to 14 with careful enforcement.

Mr. EMERY. Mr. Chairman, I dislike to intrude upon the indulgence of the committee, but I would like to be heard for about 10 minutes in response to certain laws quoted by Mr. Parkinson and as to the meaning and effect of this creation of prima facie evidence of guilt.

The CHAIRMAN. Are you filing a brief, Mr. Emery?

Mr. EMERY. If I file a brief you might not have time to read it, but I can say all I want to say in two or three minutes.

The CHAIRMAN. The gentleman can not take it for granted that the committee will not read his brief.

Mr. EMERY. Oh, no, Mr. Chairman.

The CHAIRMAN. We have got to terminate this hearing some time. It is at the pleasure of the committee.

Mr. NOLAN. Could we not meet here again at 2 o'clock?

The CHAIRMAN. Unfortunately I can not be here then. I will say to Mr. Emery that I will read anything he will submit.

Mr. EMERY. Indeed, I should like to reply to two questions.

The CHAIRMAN. Very well.

ADDITIONAL STATEMENT OF MR. JAMES A. EMERY.

Mr. EMERY. I just want to say one word quickly, if I may, in regard to the obligation upon a legislature in considering the validity of a measure. I can not agree with Mr. Parkinson that we can pass questions to the Supreme Court about which we are doubtful. On the contrary, I insist that the well-defined position of both courts and legislature throughout the history of our country has been that the court gives such great credence to the validity of legislation because of the fact that the courts assume that the legislature has removed its own doubts before it acts upon legislation, because it never acts in doubt as to its power. It was well said by Mr. Cooley in his work on the General Principles of Constitutional Law, second edition, page 160:

> Legislators have their authority measured by the Constitution. They are chosen to do what it permits, and nothing more, and they take solemn oaths to obey and support it. When they disregard its provisions, they usurp authority, abuse their trust, and violate the promise they have confirmed by an oath. To pass an act when they are in doubt whether it is not violating the Constitution is to treat as of no force the most imperative obligations any persons can assume. A business agent who would deal in that manner with his principal's business would be treated as untrustworthy; a witness in court who would treat his oath thus lightly, and affirm things concerning which he was in doubt, would be held a criminal. Indeed, it is because the legislature has applied the judgment of its members to the question of its authority to pass the proposed law, and has only passed it after being satisfied of the authority, that the judiciary waive their own doubts and give it their support.

Consequently we will agree entirely with everything that Mr. Parkinson has said with regard to the exclusive and plenary nature of the commerce power. But the gentleman says that there is only one limitation to be regarded here, and that is the due process clause. Gentlemen, the fundamental issue here is, Is this a regulation of commerce? In the case of Gibbons *v.* Ogden the first great principle laid down by the chief expounder of the Constitution was, Are the means which have been adopted for the regulation of commerce constitutional, and is the end constitutional? What are the means adopted to prevent that particular thing? The means adopted are the regulation of the conditions of employment within the States. The power of Congress to regulate commerce is to prescribe rules by which commerce shall be conducted. What article here is affected by the regulation of commerce in transit? The thing that is dealt with here is a thing that is complete when it comes within this law. The gentleman has well said that you are endeavoring to do something indirectly which you can not do directly, and you are therefore undertaking to do something within the State to make the State accept the standard which you believe to be the proper one.

That was the very question involved in the case of Pearson *v.* Kidd, in 128 United States Reports, in which a manufacturer had been forbidden to manufacture liquor and then manufactured the liquor and defended himself on the ground that the liquor was for export outside of the State, and that the commerce clause of the Constitution protected him in his manufacturing enterprise when the produce was sold in another State, and that he was thereby protected. The Supreme Court drew the line between production and manufacture, saying that the State alone is the master and it shall say itself what shall be done in a case of that kind. They forbade the manufacture of liquor and said to the man, "You can not rely upon the commerce clause of the Constitution to give you the right to do something that Congress has no power to control. Congress has no power to control production." They drew that elaborate distinction between production and manufacture. Now, on this question of constitutional law I can submit many cases to the committee holding that due process of law does not apply to a man after he is arrested and about to be tried, but it protects his person against arbitrary, unreasonable arrest by officers of the law. That is one of the most important things that he shall be protected against—that he should be permitted to go on his way about his business and not be interfered with except by due process of law. That is one of the most important principles of civil liberty in this country. There is a great distinction between civil liberty in this country and what a man does in foreign countries, where whatever a man does in uniform is not subject to inquiry by the courts of the Kingdom.

Assuming that what you want to do is perfectly valid, you want to prevent children from working in factories and your rule of evidence is so drawn that it does not attach itself to the condition which you seek to remedy. It prevents a child from being in another part of the factory doing anything else that he could be doing while the regular products of the factory are being manufactured. There may be apprentices in the factory, and you do not want to raise the age limit for apprentices to 16 years, because if you do it will be the greatest blow that was ever given to trade training in the United States.

Now, you put upon the district attorney under the fourth section the duty of commencing and prosecuting appropriate proceedings in the proper courts of the United States without delay. Of course, the prima facie evidence is the presence of the child in the factory within the forbidden ages, exclusive of whether or not he is working more hours than he is here permitted to do. Why; the gentleman from Virginia who testified here said he employed 6,000 people. A child may be employed in a department of an establishment of that kind which would be utterly removed from the manufacturing part of it and might have nothing whatever to do with manufacture or the operation of machines.

If any gentleman can file with you any rule of evidence of any character in the law of the United States which will cover that kind of a case, I shall be glad to see it. Mr. Parkinson suggested that there were similar ones in other laws, but are they identical? Are they similar in the fact that they provide for the prima facie offense? Where enough people would send out 16 shipments in a single day it would make a man liable to a half-million-dollar fine. I know you will say that this is not conclusive. You will say, "No, this is not conclusive;" but he has to submit to arrest and disgrace to his person——

Mr. LONDON (interposing). Can not the investigation be initiated by the issuance of a summons, as is being done in New York city now?

Mr. EMERY. Why, certainly; that is the reasonable way.

Mr. LONDON. Is there any provision in this act to commence the action by summons?

Mr. EMERY. The provision says, "Under appropriate proceedings." There is but one proceeding under our Federal law; he would have to be proceeded against by indictment by the grand jury.

Mr. LONDON. Is there anything to prohibit such a procedure?

The CHAIRMAN. Perhaps we are talking of different things, but we could not compel the defendant to produce testimony on his own behalf in a criminal case.

Mr. EMERY. Of course not, but you can compel the defendant, upon the assertion that a child was employed there, to rebut that statement. The fact that he is there is prima facie proof. There may be many things produced for intrastate as well as interstate commerce, and, as Mr. Denison said, how will the manufacturer distinguish between the two? It is all very well to say, "Oh, let him take care of that," and let him fix up his establishment so that he can determine the different classes of work. You certainly are not attempting to legislate in such a way that the burden of proof will be such as is indicated in this bill. I submit, Mr. Chairman, that is a very dangerous proposition which is there presented and that it does not afford those safeguards that one is entitled to expect from the Congress of the United States in the enactment of legislation such as this.

Now, the chairman asked a very acute question in this discussion that interested me very much. The whole question involved is, is it a regulation of commerce? Now, there is not a gentleman sitting on this committee who is frank with himself that does not know in his own mind that the purpose of this legislation is to regulate production. The only question is whether he can use these means to attain the end he desires, and it is the use of these means I am objecting to, not to the object to be desired. The chairman asked a question with regard to the Missouri Compromise of 1843.

Now, does the Missouri Compromise of 1843 have anything to do with the migration of colored labor to other States? The Missouri Compromise undertook to forbid slave-holding in certain States. Certainly no greater lawyers ever lived than those who surrounded Abraham Lincoln. It was well said the other day that if Mr. Lincoln had understood the meaning of the commerce clause as we now understand it there might have been no Civil War. In the case of the Missouri Compromise they could have said "You shall not transport a colored man from one State to another State." They had the absolute power, as we are told here, to prohibit the introduction of slaves through the only channel by which it could be done, that is, through interstate commerce. It never occurred to them to do that, Mr. Chairman. Perhaps they were not as acute as we are to-day. Now, let me in conclusion say——

Mr. KEATING (interposing). We had bright men in those days, but they never thought of using electric lights then, did they?

Mr. EMERY. No. They did not have it. They did not have the power they have now.

Mr. KEATING. As in the case of electric lights, this is a new application?

Mr. EMERY. Yes.

Mr. KEATING. We are progressing, then?

Mr. EMERY. Yes, we are progressing now. Now, I will ask you to ask yourselves this question. Surely child labor, where the child is improperly at work with injury to himself, is working tremendous injury to the community. There is no dispute about that whatever. Whatever dispute there may be about it would be as to the age limit and conditions of labor. There is another great evil in this country, and that is the matter of uniform marriage and divorce laws. Certainly there could be no greater evil than to have the laws of one State say that there shall be but one cause for divorce and to have another State say that there shall be 32 causes, and consequently permit the passenger on a railway train to choose his State. The purity of the famity is one of lhe first purposes of every civilized State. Suppose Congress in its effort to adopt some uniform marriage and divorce law in order to protect family life at its very root set up a standard and said that a person for certain causes should be denied the facilities of interstate commerce because he had been divorced?

Mr. PARKINSON. Is it not a fact that there now exists a very great difference of opinion as to whether the causes of divorce are a proper subject for State legislation?

Mr. EMERY. It is.

Mr. PARKINSON. And is that fact an evidence of the great danger of making any change at this time?

Mr. EMERY. Your arguments here have been based on the theory of protecting public health and public welfare. Legislative power can be exercised to protect the public morals, the public health and public welfare. The public morals of every State are the subject of continual legislation upon every point. There is nothing to which the police power of the States can be better applied. Can Congress set a standard for divorce and declare that no person who is divorced under such standards as are prescribed by law shall avail himself of the instrumentalities of interstate commerce? Let us go a step further and say that we will protect legitimate children and prohibit the use of interstate commerce to illegitimate children. That is a clear standard. Congress can set a standard on that subject, and what objection would be raised? Answer that question, and I think you will touch the very mainspring of the question now before the committee.

Mr. PARKINSON. Before the record is closed, I desire to make a brief statement. I believe there is not so much difference as might appear between my position and Mr. Emery's position as to the constitutionality of the pending legislation. I do not mean to give the impression that you are under no responsibility to decide this question as you believe it ought to be decided.

The CHAIRMAN. I think Members of Congress understand their duties very well and do not need any suggestions from either of the gentlemen here with regard to that.

Mr. PARKINSON. My point is that while you do have a responsibility to decide the question of the constitutionality of the legislation, you have no responsibility to assure yourselves that the Supreme Court of the United States will agree to it.

The CHAIRMAN. You mean that the consequence of error on our part is not as serious?

Mr. PARKINSON. Yes.

Mr. SMITH. Mr. Chairman, I would like to ask you a question. There has been an order read here, or a ruling by the Judiciary Committee in regard to the subject under discussion. I would like to know whether that report was based on hearings or whether it was based upon a presentation of a law argument?

The CHAIRMAN. I do not know, but I think it would be well to have it in the record.

Mr. KEATING. As I understand it, the report of the Judiciary Committee was presented to Congress some years ago in response to a resolution introduced by Mr. Tawney in which he asked for the opinion of the Judiciary Committee upon the point covered by that opinion.

The CHAIRMAN. I trust the governor will incorporate that in the hearing.

Mr. KEATING. Mr. Chairman, before we adjourn I would like to have the committee agree upon a day when we may meet and take up this bill for consideration.

The CHAIRMAN. Mr. Patterson wants to say a word, and then the committee will go into executive session.

Mr. PATTERSON. As chairman of the executive committee of the Southern Cotton Manufacturers, I want to say in regard to the invitation that we extended to each and every member of the committee to come down and visit the mills, that I hope you will do it before any action is taken on this measure, because we want you to see the conditions down there. They are not as you have heard them stated by some people, and we want to go on record as stating that we want to show you the conditions under which we live, how we work, how we live and what we do in the mills, and let you judge for yourselves whether the work is as hazardous as some people have said. In extending this invitation we want it distinctly understood that it also includes the wives of the members of the committee. We will be very glad to have them down there.

The CHAIRMAN. The committee will now go into executive session.

(Thereupon the committee proceeded to the consideration of executive business.)

CHILD-LABOR LAWS IN ALL THE STATES.

[National Child-Labor Committee, Incorporated, 105 East Twenty-second Street, New York City. Compiled by Florence I. Taylor, July, 1915. Pamphlet No. 249.]

ALABAMA.

Age limits.—Boys 12, girls 18, any street occupation, cities of 25,000 or over.

Exemption: Boys 10 and over for delivery on fixed routes in residential districts.

13 years (Sept. 1, 1915), 14 years (Sept. 1, 1916), all gainful occupations.

Exemptions: Boys 12 and over, business offices and mercantile establishments in places under 25,000 when schools are not in session.

16 years, specified dangerous occupations, including theatrical exhibitions, mines, quarries, tobacco factories.

21 years where intoxicating liquors are manufactured or sold. All females in mines.

Hours.—11-hour day, 60-hour week, under 16, any gainful occupation.

Night work prohibited.—6 p. m. to 6 a. m., under 16, any gainful occupation; 8 p. m. to 5 a. m., under 16, any street occupation, cities of 25,000 or over; 9 p. m. to 5 a. m., under 18, messenger service, cities of 25,000 or over; 10 p. m. to 5 a. m., under 18, messenger service, places under 25,000.

Work permits.—Under 16, any gainful occupation; issued by school superintendent upon: (1) Attendance at school 60 days during year preceding issuance of certificate; (2) proof of age by (*a*) birth record, or (*b*) passport or baptismal certificate, or (*c*) affidavit of parent or guardian.

Permit to be returned to child when employment terminates.

Exemption: Boys 12 to 14, in business and mercantile establishments in places under 25,000 not required to have permits when schools are not in session.

Street work permits.—Under 16; issued by school superintendent upon (1) satisfactory proof of age and (2) regular attendance at school.

General exemption.—Agriculture and domestic service.

Education.—Children under 16 in mills, factories, and manufacturing establishments required to attend school 8 weeks every year, 6 to be consecutive.

Enforcement.—State prison inspector (Montgomery).

Police and other peace officers enforce street-work provisions.

Violations.—Minimum penalties (first offense): (1) Employer, $10; (2) false affidavit, $5.

ALASKA.

Age limits.—12 years, underground in mines (general U. S. law applying to all Territories).

Minors and women in barrooms.

Education.—School attendance compulsory between 8 and 16, entire school year, for whites and natives of mixed blood leading civilized life and living within 2 miles of school.

School attendance compulsory between 8 and 16, entire school year, natives living within 1 mile of U. S. public school.

Enforcement.—None except as to safety in mines by mining inspector.

ARIZONA.

Age limits.—Boys 10, girls 16, selling anything in streets; 10 years, bootblacks.

14 years, mill, factory, workshop, mercantile establishment, tenement house manufactory or workshop, store, business, telegraph or telephone office, restaurant, bakery, barber shop, apartment house, bootblack stand, errand, delivery, or messenger service.

Exemption: Boys over 10, outside of school hours when licensed by board of trustees of school district

16 years, specified, dangerous occupations, including theaters, drug stores, bowling alleys, laundries, tobacco factories, distilleries, breweries, hotels.

16 years, and all females in mines and quarries.

18 years, specified extra-hazardous occupations.

Minors and women, barroms.

Hours.—8-hour day, 48-hour week, boys under 16, girls under 18, all gainful occupations.

Exemption: Agriculture and domestic service.

8-hour day, 56-hour week, all females, mercantile establishment, confectionery store, bakery, laundry, hotel, restaurant, telephone or telegraph office.

Exemptions: Telephone and telegraph offices employing fewer than four; nurses.

8-hour day, all persons in mines.

Night work prohibited.—7 p. m. to 7 a. m., boys under 16, girls under 18, all occupations.

Exemption: Domestic service and agriculture.

10 p. m. to 5 a. m., under 21, messenger service in incorporated cities and towns.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Completion of the 5th grade; (2) proof of age by (*a*) passport, or (*b*) birth or baptismal certificate, or (*c*) other religious record, or (*d*) affidavit of parent or guardian; (3) certificate of physical fitness.

Nature of work to be stated.

Permit to be returned to issuing officer when child leaves.

Education.—School attendance compulsory between 8 and 16 entire school year.

Exemption: Children who have completed grammar-school course.

Enforcement.—Inspectors of factories, school attendance officers.

Violations.—Minimum penalties (first offense): (1) Employer, $5; (2) parent, 5; (3) false affidavit, $5; (4) school official, $5.

ARKANSAS.

Age limits.—14 years, all remunerative occupations.

Exemption: Under 14 in school vacation may be employed by parents in occupations controlled by them.

16 years, specified dangerous occupations including saloons, stage of theater and theatrical exhibition, quarries, bowling alleys, pool or billiard rooms. 16 years, and all females in mines.

Hours.—8-hour day, 48-hour week, under 16, all remunerative occupations.

10-hour day, 54-hour week, boys under 18, in same occupations.

9-hour day, 54-hour week, all females under 16 in manufacturing, mechanical, and mercantile establishments, laundry, or by express or transportation company.

Exemption: Factories handling perishable products may be exempt after hearing before commission.

Night work prohibited.—7 p. m. to 6 a. m., under 16, any occupation; 10 p. m. to 6 a. m., boys under 18, any occupation; 9 p. m. to 7 a. m., girls 16 to 18, occupations prohibited to females over 16.

Work permits.—Under 16, any remunerative occupation; issued by school superintendent or commissioner of labor and statistics upon: (1) Documentary proof of age; (2) completion of 4th grade.

Education.—School attendance compulsory between 8 and 16 one-half entire session; between 16 and 20 if unemployed.

Exemptions: Cases of poverty; completed 7 grades; 41 counties.

Enforcement.—Bureau of labor and statistics (Little Rock); factory and mine inspectors, truant officers, probation officers, agents of humane society.

Violations.—Minimum penalties (first offense): (1) Employer, $5; (2) parent, $5; (3) false affidavit, $5.

CALIFORNIA.

Age limits.—Boys, 10; girls, 18; any street occupation, cities of 23,000 or over. 15 years, mercantile, manufacturing, or mechanical establishment, workshop, office, laundry, place of amusement, restaurant, hotel, apartment house, errand, delivery, and messenger service.

Exemptions: 12 years on weekly school holidays and during vacation; 14 years, outside of school hours with permit; 14 years, completed grammar-school course and physically fit; 14 years, cases of poverty.

16 years, specified dangerous occupations, including mines and quarries, tobacco factories, bowling alleys, pool and billiard rooms.

16 years, singing, playing, dancing, peddling, acrobat.

Exemption: Children taking part in school, church, or charitable entertainments. (See also General exemptions.)

Hours.—8-hour day, 48-hour week, under 18, any gainful occupation.

8-hour day, 48-hour week, females, manufacturing, mechanical, or mercantile establishment, laundry, hotel, public lodging house, apartment house, hospital, place of amusement, restaurant, telegraph or telephone office, express or transportation company.

Exemption: Harvesting, curing, canning, drying fruits and vegetables. Graduate nurses in hospitals.

8-hour day, all persons in mines.

Night work prohibited.—10 p. m. to 5 a. m., under 18, any gainful occupation.

9 p. m. to 6 a. m., under 18, messenger service.

Work permits.—15 years, occupations prohibited under 15; issued by school superintendent upon: (1) Completion of grammar-school course or completion of 7th grade and attendance at night school; (2) proof of age by (*a*) birth certificate or (*b*) passport or baptismal certificate or (*c*) other evidence, including affidavit of parent or guardian; (3) employer's statement of intention to employ child, giving nature of occupation; (4) certificate of physical fitness.

Exemption: 14 years for employment outside of school hours on compliance with requirements for regular permit. Permit issued for 6 months, may be renewed.

Employer to notify issuing officer when child leaves. Permit returned to child.

Vacation permits.—Over 12, for employment on school holidays and during vacation; signed by principal of school child is attending.

Permit to contain date of termination of vacation and to be returned to child at terminaion.

General exemptions.—16 and over in agricultural, horticultural, viticultural, domestic labor exempt from provisions of act.

Under 16 in same occupations exempt from provisions of act outside school hours and when schools are not in session. (Horticultural includes curing and drying but not canning fruit.)

15 to 18 on stage exempt from provisions of act with written consent of commissioner of labor.

Any minor in presentation of drama or dramatic play exempt from provisions of act with written consent of commissioner of labor. Includes production of motion-picture plays.

Education.—School attendance compulsory between 8 and 15, entire school year.

Exemption: Over 12 with permit.

Continuation schools.—Under 17, regularly employed, may be required to attend continuation schools (where established) 4 hours per week.

Under 17, not regularly employed and not attending regular day school, may be required to attend full time day or part time vocational schools.

Enforcement.—Bureau of labor statistics (Sacramento); attendance officers, probation officers.

Violations.—Minimum penalty (first offense): Employer, $50.

COLORADO.

Age limits.—Girls 10 years, any street occupation.

14 years, theater, concert hall, or place of amusement where liquors are sold, mercantile establishment, store, office, hotel, laundry, manufacturing establishment, bowling alley, passenger or freight elevator, factory or workshop, or as messenger or driver therefor.

Exemption: Childen in agriculture. (See Work permits.)

16 years, performer in concert hall or place where intoxicating liquors are sold, variety theater, immoral or injurious exhibition.

Exemptions: Children taking part without pay in church, school, or charitable entertainment; any child in concert or theatrical exhibition with permit from school superintendent or judge.

16 years, specified dangerous occupations. 16 years, and all females in mines.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

8-hour day, females, manufacturing, mechanical, or mercantile establishment, laundry, hotel, restaurant.

8-hour day, all persons, mines, smelters, etc.

Night work prohibited.—8 p. m. to 7 a. m., under 14, any occupation.

After 8 p. m., under 16, any occupation.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Proof of age by (*a*) school census, or (*b*) certificate of birth or baptism, (*c*) registration of birth, or (*d*) affidavit of parent; (2) ability to read and write English, or attendance at night school.

Employer to return permit to child when child leaves.

Under 14, in agriculture must have permit to work for persons other than parent.

General exemptions.—Children 14 to 16 exempt from all provisions of act (except dangerous occupations) with permit from school superintendent or judge.

Children over 12, during summer vacation, exempt from same provisions with similar permit.

Education.—School attendance compulsory between 8 and 16, entire school year. Illiterates 14 to 16 shall attend day school one-half day or night school or take private instruction until qualified for work permit.

Exemptions: Children over 14 who have completed 8th grade; cases of poverty.

Enforcement.—Department of factory inspection (Denver).

Violations.—Minimum penalties (first offense): (1) Employer, $5; (2) parent, $5; (3) false affidavit, $5.

CONNECTICUT.

Age limits.—16 years, dancing, peddling, acrobat, immoral, or injurious exhibition.

14 years, mechanical, mercantile, or manufacturing establishment.

16 years, specified dangerous occupations, including distilleries, breweries, mines, and quarries; 18 years, operating elevators running faster than 200 feet

per minute; 18 years, pool and billiard rooms, in connection with places where liquors are sold.

Minors, bar rooms.

Hours.—10-hour day, 55-hour week, under 16, and all women, manufacturing or mechanical establishment.

58-hour week, under 16, and all women, mercantile establishment.

Exemption: Dec. 17 to 25, if seven holidays with pay are given during year.

Night work prohibited.—After 6 p. m., under 16, manufacturing or mechanical establishment.

After 6 p. m., under 16, mercantile establishment.

Exemptions: 10 p. m., one day a week; 10 p. m., Dec. 17 to 25.

After 10 p. m., all females over 16.

Work permits.—Under 16, manufacturing, mechanical, or mercantile establishment; issued by board of education upon: (1) Proof that child is over 14; (2) ability to read and write; (3) appearance of physical fitness for employment; examination may be required in doubtful cases.

Employer to notify board of education of time of commencement and termination of employment.

Education.—School attendance compulsory between 7 and 16 entire school year.

Exemption: Children over 14 regularly employed.

Illiterates 14 to 16 required to attend evening school (where established) eighteen evenings every school month.

Enforcement.—State board of education (Hartford); department of labor and factory inspection.

Violations.—Maximum penalty: Work permits, $20; dangerous occupations, $100.

Street work, New Haven (city ordinance).—14 years, selling anything where intoxicating liquors are dispensed; night work prohibited 8 p. m. to 3 a. m., under 14, selling anything in public place.

DELAWARE.

Age limits.—12 years, canneries other than those engaged in packing perishable fruit and vegetables.

Boys, 12, girls, 14, selling newspapers, periodicals, cities of 20,000 or over.

Boys, 14, girls, 16, bootblacks or other occupations in public place, cities of 20,000 or over.

14 years, mill, factory, workshop, mercantile or mechanical establishment, tenement house, manufactory or workshop, office, office building, restaurant, boarding house, bakery, barber shop, hotel, bootblack stand, public stable, garage, laundry, or as driver, or in brick or lumber yards, in construction or repair of buildings, messenger service.

14 years, specified dangerous occupations.

15 years, other specified dangerous occupations, including mines and quarries.

15 years, dancing, acrobat, begging, immoral or injurious exhibition.

16 years, on stage of theater or in theatrical exhibition.

Exemption: Under 16 for two weeks with permit from child-labor inspector.

21 years, saloons.

Exemption: Children of dependent parents exempt from age limits with permit from judge and Society for Prevention of Cruelty to Children.

Hours.—54-hour week, under 16, occupations prohibited to 14.

10-hour day, 55-hour week, all females, mercantile, mechanical or manufacturing establishments, laundry, baking or printing establishment, telephone or telegraph exchange.

Night work prohibited.—6 p. m. to 7 a. m., under 16, occupations prohibited to 14; 8 p. m. to 6 a. m., under 16, any street occupation; 10 p. m. to 6 a. m., under 18, messenger service, cities of 20,000 or over.

Work permits.—Under 16, canneries and occupations prohibited to 14; issued by school superintendent upon: (1) Attendance at school 130 days during year preceding application for permit and ability to read and write English; (2) certificate of physical fitness; (3) proof of age by (*a*) birth certificate, or (*b*) passport or baptismal certificate, or (*c*) other documentary evidence, or (*d*) physical examination.

Employer to return permit to issuing officer when child leaves.

Vacation permits.—Issued for employment on days when schools are not in session.

Street work permits.—Boys under 14, girls under 16; issued by school superintendent upon (1) proof of age as required for work permits and (2) written statement of school official that child is attending school and is of normal development.

Education.—School attendance compulsory between 7 and 14 at least 5 months. Each school district may reduce session to not less than 3 months.

Enforcement.—State labor inspector (Wilmington).

Violations.—Minimum penalties (first offense): (1) Employer, $5; (2) parent, $5; (3) false affidavit, $5.

DISTRICT OF COLUMBIA.

Age limit.—Boys 10, girls 16, bootblacking, selling anything in public place.

14 years, factory, workshop, mercantile establishment, store, business office, telegraph or telephone office, restaurant, hotel, apartment house, club, theatre, bowling alley, laundry, bootblack stand, errand, delivery or messenger service.

Exemptions: Children employed by Senate; children 12 to 14 in cases of poverty with permit from judge of juvenile court.

14 years, acrobat, begging.

Hours.—8-hour day, 48-hour week, under 16, occupations prohibited to 14.

8-hour day, 48-hour week, females, manufacturing, mechanical or mercantile establishment, laundry, hotel, restaurant, telegraph or telephone establishment, express or transportation company.

Night work prohibited.—7 p. m. to 6 a. m., under 14, any occupation; 7 p. m. to 6 a. m., under 16, occupations prohibited to 14; 7 p. m. to 6 a. m., girls 16 to 18, occupations prohibited to females; 10 p. m. to 6 a. m., under 16, selling.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Proof of age by (*a*) certificate of birth or baptism, or (*b*) other religious record, or (*c*) register of birth, or (*d*) affidavit of parent; (2) attendance at school 130 days during year previous to application and ability to read and write; (3) statement of issuing officer that child fulfills requirements and is physically fit for work.

Exemption: Educational requirement may be waived with permit from juvenile court judge.

Street work permits.—Boys under 16; issued by school superintendent on same proof of age and schooling as required for regular permits.

General exemption.—Children in theatrical exhibitions exempt from provisions of act with written consent of Commissioner of District.

Education.—School attendance compulsory between 8 and 14 entire school year.

Enforcement.—Factory inspectors, police, truant officers.

Violations.—Maximum penalty (first offense): Employer, $50.

FLORIDA.

Age limits.—Boys 10, girls 16, selling papers, periodicals, cities of 6,000 or more.

12 years, store, office, transmission of merchandise, transmission of messages, cities of 6,000 or over.

14 years, mill, factory, workshop, mechanical establishment, laundry, stage of any theatre.

14 years, singing, playing, dancing, begging, peddling, acrobat, immoral or injurious exhibition.

16 years, specified dangerous occupations.

21 years, pool room, billiard room, brewery, saloon.

Hours.—9-hour day, 54-hour week, under 16, occupations prohibited to 14.

Night work prohibited.—8 p. m. to 5 a. m., under 16, occupations prohibited to 14; 10 p. m. to 5 a. m., under 18, messenger service.

Work permits.—Under 16, for work in factory, workshop, laundry, mine, or mill; issued by school superintendent upon: (1) Attendance at school 60 days during year preceding 14th birthday or application for permit, ability to read and write, instruction in reading, writing, spelling, geography, arithmetic through fractions; (2) proof of age by (*a*) passport, or (*b*) birth or baptismal certificate, or (*c*) other religious record, or (*d*) affidavit of parent or guardian; (3) statement of issuing officer that child fulfills requirements and is physically fit for work, doubtful cases to be determined by physician.

Enforcement.—State labor inspector (Jacksonville); judicial; police officers.

Education.—School attendance compulsory between 8 and 14 (where adopted) not less than 80 days.

Exemption: Cases of poverty.

Violations.—Maximum penalties (first offense): (1) Employer, $50; (2) parent, $50.

GEORGIA.

Age limits.—12 years, begging, arcrobat, immoral exhibitions.

14 years, mill, factory, laundry, manufacturing establishment, place of amusement.

Exemption: Children 12 to 14, orphans or children of widowed mothers, after investigation by commission of 3.

18 years, telegraph operators in connection with movement of trains.

Hours.—60-hour week, all operatives in cotton or woolen manufacturing establishments.

Sunrise to sunset, all under 21 in other manufacturing establishments or machine shops.

Night work prohibited.—7 p. m. to 6 a. m., under 14½, occupations prohibited to 14; 9 p. m. to 6 a. m., under 16, messenger service.

Work permits.—Under 14½; issued by school superintendent upon: (1) Satisfactory evidence of age; (2) attendance at school 12 weeks during year preceding application for permit.

Permits for children of 12 in cases of poverty limited to 6 months.

Enforcement.—Commissioner of labor (Atlanta).

Violations.—Violation punishable as misdemeanor.

HAWAII.

Age limits.—Minors where intoxicating liquors are sold.

Night work prohibited.—9 p. m. to 6 a. m., females under 16, mercantile institution, office, laundry, manufacturing establishment, canning establishment, sugar mill, workshop, restaurant, hotel, apartment house, errand, delivery, or messenger service.

Education.—School attendance compulsory between 6 and 15.

Exemptions: Children not less than 13 who have passed examinations of primary and grammar school grades and are suitably employed.

Children not less than 14 suitably employed under direction of parent or guardian.

IDAHO.

Age limits.—14 years, mine, factory, workshop, mercantile establishment, store, telegraph or telephone office, laundry, restaurant, hotel, apartment house, errand, delivery, and messenger service.

Exemption: Over 12 years, during regular vacations.

16 years, singing, playing, dancing, begging, peddling, immoral or injurious exhibition.

Exemption: Children without pay in school, church, or charitable entertainment.

Minors as messengers to immoral places; in making, bottling, or selling liquors.

Hours.—9-hour day, 54-hour week, under 16, any gainful occupation.

9-hour day, all females, mechanical or mercantile establishment, laundry, hotel, restaurant, telephone or telegraph establishment, office, express, or transportation company.

Exemption: Fruit and vegetable canneries.

8-hour day, all persons in mines.

Night work prohibited.—9 p. m. to 6 a. m., under 14, any occupation; 9 p. m. to 6 a. m., under 16, all gainful occupations.

Education.—School attendance compulsory between 8 and 18, entire school year.

Exemptions: Children over 14 who have completed the 8th grade. Cases of poverty.

16 years, during school hours unless child can read and write English and has received instruction in certain fundamental subjects.

Enforcement.—Probation officers, school trustees.

Violations.—**Maximum penalties (first offense): (1) Employer, $50; (2) parent, $50.**

ILLINOIS.

Age limits.—14 years, any gainful occupation in theatre, concert hall, or place of amusement where liquors are sold, mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, elevator, factory, or workshop, or as messenger or driver therefor.

14 years, singing, playing, dancing, begging, acrobat.

16 years, specified dangerous occupations, including bowling alleys, laundries, 16 years, and all females in mines.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

10-hour day, females, mechanical or mercantile establishment, factory, laundry, hotel, restaurant, telegraph or telephone establishment, place of amusement, express or transportation company, or public institution.

Night work prohibited.—7 p. m. to 7 a. m., under 16, any gainful occupation.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent (public or parochial) upon: (1) Proof of age by (*a*) school census, or (*b*) certificate of birth or baptism, or (*c*) town or city register of birth, or (*d*) school records, or (*e*) affidavit of parent or guardian; (2) ability to read and write.

Education.—School attendance compulsory between 7 and 16, entire school year (not less than 6 months).

Exemption: Children 14 and over necessarily and lawfully employed.

Illiterates between 14 and 16 required to attend evening school. Permits not to be issued to illiterates in cities where there are no public evening schools or when such schools are not in session.

Enforcement.—Department of factory inspection (Springfield).

Violations.—Minimum penalties (first offense): (1) Employer, $5, (2) parent, $5, (3) false affidavit, $5.

Street work Chicago (city ordinance).—Girls 18, any street occupation; boys 14, in same occupations between 8 p. m. and 5 a. m., unless with work permit.

INDIANA.

Age limits.—14 years, any gainful occupation.

Exemptions: Agriculture and domestic service. Children 12 to 14 in fruit and vegetable canneries, June 1st to Oct. 1st.

14 years, and all females in mines.

15 years, acrobat, immoral or injurious exhibition.

16 years, specified dangerous occupations including theatres, tobacco factories, hotels.

Boys 16, girls 18, extra-hazardous occupations including places where liquors are manufactured, packed, or sold.

Boys 16, girls 18, cleaning machinery in motion.

18 years, singing, playing, begging, mendicant occupations.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

Exemption: 9-hour day, 54-hour week, with consent of parents. Agriculture and domestic service.

10-hour day, 60-hour week, females 16 to 18, manufacturing or mercantile establishment, laundry, renovating works, bakery, printing office.

Night work prohibited.—6 p. m. to 7 a. m., under 16, all gainful occupations.

Exemption: Agriculture and domestic service.

10 p. m. to 6 a. m., all females in manufacturing.

Work permits.—Under 16 (occupations not specified); issued by school superintendent upon: (1) Completion of 5th grade; (2) employer's written statement of intention to employ child; (3) proof of age, or if not obtainable, statement of school officer that child is of age and physically fit for work.

Employer notifies school authorities when child leaves.

Education.—School attendance compulsory between 7 and 14 entire school year; to 16 if unemployed.

(Attorney General rules that "14 years" means end of 14th year.)

Continuation schools.—Boys 14 to 16, regularly employed, required to attend part-time classes (where established) not less than 5 hours a week between 8 a. m. and 5 p. m.

Enforcement.—State bureau of inspection through department of inspection of buildings, factories, and workshops and department of inspection of mines and mining (Indianapolis).

Violations.—Minimum penalties (first offense): (1) Employer, $5, (2) parent, $5.

IOWA.

Age limits.—Boys 11, girls 18, any street occupation, cities of 10,000 and over.

Exemption: Under 11 in exceptional cases if authorized by municipal or superior court judge.

14 years, mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house, packing house, store or mercantile establishment where more than eight persons are employed, elevator, livery stable, garage, place of amusement, messenger service.

Exemption: Establishments owned or operated by parents.

16 years, few specified dangerous occupations, including hotels, bowling alleys, pool or billiard rooms.

16 years, mines, during school term.

16 years (females 18), cleaning machinery while in motion.

Females in barrooms.

Hours.—8-hour day, 48-hour week, under 16, occupations prohibited under 14.

Night work prohibited.—6 p. m. to 7 a. m., under 16, occupations prohibited under 14; 4 a. m. to 7.30 p. m., boys under 16, any street occupation on days when schools are not in session.

Exemption: 8.30 p. m. in summer vacation.

10 p. m. to 5 a. m., under 18, messenger service, cities of 10,000 and over.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Employer's written agreement to employ child, with description of work and promise to return permit to issuing officer when child leaves; (2) completion of 6th grade; (3) certificate of physical fitness; (4) proof of age by (*a*) birth certificate, or (*b*) passport or baptismal certificate, or (*c*) school-census record, or (*d*) physical examination.

Street work permits.—Boys under 16; same provisions as for regular permits except 1 and 2. Regular attendance at school.

Education.—School attendance compulsory between 7 and 16.

Exemptions: Children who have completed 8th grade; children over 14 regularly employed.

Enforcement.—Bureau of labor and statistics (Des Moines); truant officers, mine inspectors, county attorneys, police, sheriffs.

Violations.—Maximum penalties (first offense): (1) Employer, $100; (2) parent, $100; (3) false affidavit, $100.

KANSAS.

Age limits.—14 years, factory, workshop (not owned or operated by child's parents), theatre, packing house, operating elevators, mine.

14 years, acrobat, beggar, mendicant occupation.

16 years, occupations dangerous to health or morals.

Hours.—8-hour day, 48-hour week, under 16, occupations prohibited under 14 and messenger service.

Night work prohibited.—6 p. m. to 7 a. m., under 16, occupations prohibited under 14 and messenger service.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Proof of age from school-census records or affidavit of parent or guardian.

Education.—School attendance compulsory between 8 and 15 entire school year.

Exemption: Children of 14 who can read and write English and are necessarily employed need attend school only 8 weeks annually.

Enforcement.—Department of labor and industry (Topeka); State mine inspector.

Violations.—Minimum penalties (first offense): Employer, $25; (2) parent, $25.

KENTUCKY.

Age limits.—14 years, factory, mill, workshop, mercantile establishment, store, office, printing establishment, bakery, laundry, restaurant, hotel, apartment house, theater, errand, delivery or messenger service, on stage of any theater, motion-picture establishment, or other place of amusement.

Boys 14, girls 18, any street occupation, 1st, 2d, or 3rd class cities.

16 years, specified dangerous occupations, including mines and quarries, tobacco factories, bowling alleys, pool and billiard rooms, places where liquors are manufactured.

16 years, begging, peddling, immoral or injurious exhibition.

Hours.—8-hour day, 48-hour week, under 16, occupations prohibited under 14.

10-hour day, 60-hour week, females under 21, any occupation.

Exemption: Domestic service and nursing.

10-hour day, 60-hour week, all females, laundry, bakery, factory, workshop, store, mercantile, manufacturing or mechanical establishment, hotel, restaurant, telephone exchange, telegraph office.

Night work prohibited.—6 p. m. to 7 a. m., under 16, occupations prohibited under 14; 8 p. m. to 6 a. m., under 16, any street occupation; 9 p. m. to 6 a. m., under 21, messenger service, 1st, 2d, or 3rd class cities.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon :(1) Completion of 5th grade; (2) proof of age by (*a*) birth certificate, or (*b*) passport or baptismal certificate, or (*c*) other evidence, or (*d*) affidavit of parent or guardian; (3) employer's written statement of intention to employ child; (4) certificate of physical fitness.

Employer to return permit to issuing officer when child leaves.

Street work permits.—Under 16; issued by school authorities on same requirements as for regular permits.

Exemption: Boys who comply with all requirements except (1) permitted to work on days when schools are not in session.

Education.—School attendance compulsory between 7 and 16 entire school year, cities of 1st, 2d, 3rd, or 4th class; between 7 and 12 in counties.

Exemption: Children 14–16 regularly employed.

Enforcement.—State labor inspector (Louisville); State mine inspector (Lexington); truant, police, and probation officers.

Violations.—Minimum penalties (first offense): (1) Employer, $15; (2) parent, $15.

LOUISIANA.

Age limits.—14 years, mill, factory, mine, packing house, manufacturing establishment, workshop, laundry, millinery or dressmaking store or mercantile establishment, hotel or restaurant, theater, concert hall, place of amusement where intoxicating liquors are made or sold, bowling alley, bootblacking establishment, freight or passenger elevator, errand, delivery, and messenger service.

Exemption: Agricultural pursuits.

16 years, acrobat, singing, dancing, theatrical exhibition, immoral or injurious exhibition.

Exemption: Children without pay in church, school, or charitable entertainment; theatrical exhibition with permit from judge of juvenile court.

17 years, pool and billiard rooms.

Minors and women cleaning machinery in motion.

Hours.—10-hour day, 60-hour week, boys under 18 and all women, occupations prohibited under 14.

Exemption: Stores and mercantile establishments Saturday nights and 20 days before Christmas.

Night work prohibited.—7 p. m. to 6 a. m., boys under 16, girls under 18, any occuption.

Exemption: Same as for hours.

Work permits.—Under 16; issued by factory inspector of New Orleans for any part of the State upon: (1) Proof of age by (*a*) certificate of birth or baptism, or (*b*) school record, or (*c*) passport, or (*d*) affidavit of parent or guardian.

Education.—School attendance compulsory between 8 and 16 (parish of Orleans only).

Exemption: Children who have completed elementary school; children over 14 regularly employed.

Enforcement.—Commissioner of labor and industrial statistics (Baton Rouge); factory inspector (New Orleans).

Violations.—Minimum penalties (first offense): (1) Employer, $25; (2) parent, $10; (3) false affidavit, $10.

MAINE.

Age limits.—14 years, manufacturing or mechanical establishment.

15 years, operating elevators.

16 years, begging, immoral or injurious exhibition.

18 years, elevators running at speed of over 200 feet a minute.

Hours[1].—9-hour day, 54-hour week, boys under 16 and all females in workshop, factory, manufacturing or mechanical establishments, laundry.

54-hour week, under 16, and all females, telephone exchanges, employing more than 3 operators, mercantile establishment, store, restaurant, telegraph office, express or transportation company.

Exemption: Dec. 17–24; 8 days prior to Easter in millinery shops or stores.

General exemption: Establishments handling perishable products.

Night work prohibited.[1]—6 p. m. to 6:30 a. m., under 16, workshop, factory, manufacturing or mechanical establishment, laundry.

Exemption: Establishments handling perishable products.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1.) Ability to read and write English and knowledge of fundamental arithmetic; (2) proof of age by certificate of birth or baptism or passport.

Certificate of physical fitness may be required in doubtful cases.

Employer to return permit to child when child leaves; Commissioner of Labor to be notified.

Vacation permits.—14–16 for employment during summer vacation on same requirements as regular permits except (1).

Education.—School attendance compulsory between 7 and 15 entire school year (17 if illiterate).

Exemption: "Necessary absence" excused by school superintendent.

Enforcement.—Department of Labor and Industry (Augusta).

Violations.—Minimum penalties (first offense): (1) Employer, $25; (2) parent, $10; (3) false affidavit, $25.

MARYLAND.

Age limits.—Boys 10, girls 16; selling newspapers, periodicals, cities of 20,000 or over.

Boys 14, girls 16, any street occupation except newspaper selling, cities of 20,000 or more.

12 years, canning or packing establishment, mercantile establishment, store, office, boarding house, place of amusement, club, distribution or sale of merchandise.

14 years, mill, factory, workshop, mechanical establishment, tenement house, manufactory or workshop, office building, restaurant, bakery, barber shop, hotel, apartment house, bootblack stand, public stable, garage, laundry, as driver, brick or lumber yard, construction or repair of buildings, messenger service.

14 years, acrobat, mendicant occupations.

16 years specified dangerous occupations including mines and quarries, tobacco factories, pool or billiard rooms.

16 years, on stage of theater or concert hall, or in theatrical performances.

Exemption: Period of two weeks with permit from chief of Maryland Bureau of Statistics and Information.

18 years, extrahazardous occupations.

21 years, saloons.

Hours.—10-hour day, under 16, manufacturing, business, factory (any part of State) or mercantile business (Baltimore).

10-hour day, 60-hour week, females, manufacturing, mechanical, mercantile, printing, baking or laundering establishment.

Exemption: Fruit and vegetable canneries.

10-hour day, mines.

Night work prohibited.—8 p. m. to 6 a. m., under 16, any street occupation; 10 p. m. to 6 a. m., under 18, messenger service, cities of 20,000 or over.

Work permits.—Under 16, occupations prohibited under 14; issued by chief of Maryland Bureau of Statistics and Information, or in counties also by county school superintendent, upon: (1) Completion of the 5th grade: (2) certificate of physical fitness: (3) proof of age by (*a*) birth certificate, or (*b*) passport, or (*c*) baptismal certificate, or (*d*) other documentary evidence, or (*e*) physical examination.

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[1] Passed 1915 but to be referred to popular vote in September.

Permit to contain name and address of prospective employer and nature of child's occupation.

Employer to return permit to issuing officer when child leaves.

Vacation permits.—Over 12 outside of school hours throughout year on proof of age and physicians certificate; issued by bureau of statistics and information.

Street-work permits.—Under 16; issued by chief of bureau of statistics and information upon (1) proof of age required for regular permit and (2) written statement of principal that child is attending school.

Education.—School attendance required between 8 and 14 entire school year (not less than 4 months in counties); to 16 if unemployed.

Exemption: Counties where not approved by county school commissioners.

Enforcement.—Bureau of statistics and information (Baltimore); attendance officers.

Violations.—Maximum penalties (first offense): (1) Employer, $50; (2) false affidavit, $100.

Age limits.—Boys, 12; girls, 18; any street occupation, cities of 50,000 or over.

14 years, factory; workshop; manufacturing, mechanical, or mercantile establishment; barber shop; bootblack stand or establishment; public stable; garage; brick or lumber yard; telephone exchange; telegraph or messenger office; construction or repair of buildings; wage-earning industry in tenement.

15 years, dancing on stage, singing, acrobatic, theatrical exhibition.

Exemption: Children without pay in church, school, or charitable entertainment with permit from mayor.

16 years, specified dangerous occupations, including tobacco factories, bowling alleys, pool or billiard rooms.

18 years, extrahazardous occupations.

21 years, saloons.

8-hour day, 48-hour week, occupations prohibited under 14.

Hours.—10-hour day, 54-hour week, boys under 18, girls under 21, occupations prohibited under 14.

Night work prohibited.—6 p. m. to 6.30 a. m., under 14, any occupation; 6 p. m. to 6.30 a. m., under 16, occupations prohibited under 14; 10 p. m. to 5 a. m., boys under 18, girls under 21, same occupations; 6 p. m. to 5 a. m., boys under 18, girls under 21, textile factories; 9 p. m. to 5 a. m., boys under 16, any street occupation; 10 p. m. to 5 a. m., boys under 21, messenger service, except in newspaper business.

Work permits.—Under 16, factory, workshop, manufacturing, mechanical, or mercantile establishment; issued by school superintendent upon: (1) Signed pledge of employer to employ child, giving nature of work, and to return permit to issuing officer when child leaves; (2) completion of 4th grade; (3) certificate of physical fitness; (4) proof of age by (*a*) birth certificate, or (*b*) baptismal certificate, or (*c*) passport, or (*d*) school record, or (*e*) physical examination.

Street-work permits.—Under 16; issued by school superintendent on same proof of age as for regular work permits.

Education.—School attendance compulsory between 7 and 14 entire school year (16 unless completed 4th grade or employed.)

Illiterate minors between 16 and 21 required to attend night school entire session where established.

Continuation schools.—Minors 14 and 15, regularly employed, required to attend continuation schools (where established) not less than 4 hours a week between 8 a. m. and 6 p. m.

Enforcement.—State board of labor and industries (Boston); truant officers and police.

Violations.—Minimum penalties (first offense): (1) Employer, $10; (2) parent, $2; (2) official, $10.

MICHIGAN.

Age limits.—15 years, mercantile institution, store, office, hotel, laundry, manufacturing establishment, mine, bowling alley, billiard or pool room, theater, elevator, factory, workshop, messenger service.

Exemption: Children of 14 in vacation, fruit or vegetable canneries.

16 years, acrobat, dancing, peddling, immoral or injurious exhibition.

16 years, theater, variety show, moving-picture show, burlesque show, playhouse, music or dance hall, pool room, billiard room.

Boys 16–18 unless in occupations approved by department of labor.

Boys 18, girls 21, extra-hazardous occupations.

21 years, theater, concert hall, or place of amusement where intoxicating liquors are sold.

Hours.—10-hour day, 54-hour week, boys under 18 and all females, factory, mill, warehouse, workshop, clothing, dressmaking, or millinery establishment, manufacturing establishment, laundry, store, shop, mercantile establishment, office, restaurant.

Exemption: Fruit and vegetable canneries.

10-hour day, 54-hour week, boys 16–18 in occupations not prohibited under 18.

Night work prohibited.—6 p. m. to 6 a. m., under 16, manufacturing establishment, workshop, mine or messenger service; 6 p. m. to 6 a. m., females under 18, manufacturing establishments; 10 p. m. to 5 a. m., under 18, messenger service.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Completion of sixth grade; (2) proof of age by (*a*) passport or birth certificate, or (*b*) baptismal certificate or other religious record, or (*c*) physical examination; (3) statement of issuing officer that child fulfills requirements, is physically fit for work, and that it is necessary for child to work.

Child required to report once a month to issuing officer concerning employment.

Department of labor or school superintendent required to issue on demand certificates of age to persons over 16 based on same evidence as regular work permits.

Employer to return permit to issuing officer when child leaves.

Vacation permits.—Summer vacation only; on same requirements as regular permits except (1). Expire first Monday in September.

General exemption.—Children under 16 in traveling theatrical companies exempt from act.

Education.—School attendance compulsory between 7 and 16 entire school year.

Exemptions: Children who have completed eighth grade; over 14 in cases of poverty.

Enforcement.—Department of labor (Lansing).

Violations.—Minimum penalty: False affidavit, $10.

MINNESOTA.

Age limits.—14 years, factory, mill, workshop, mine, construction of buildings, engineering work.

16 years, specified dangerous occupations, including theaters, bowling alleys.

Exemptions: Children without pay in church, school, or charitable entertainments; children in theatrical exhibitions with written consent of mayor, not to be given for children under 10.

18 years, acrobat, dancing, begging, messenger to immoral house.

21 years, girls, messenger service.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

9-hour day, 54-hour week, females, manufacturing or mechanical establishment, telephone or telegraph establishments in first and second class cities.

10-hour, 58-hour week, females, mercantile establishment, restaurant, lunch room, eating house, or kitchen connected therewith.

Exemptions to hours for females: Canneries operating not more than 6 weeks; 11-hour day in mercantile establishments on Saturday.

Night work prohibited.—7 p. m. to 7 a. m., under 16, any gainful occupation; 9 p. m. to 5 a. m., boys under 18, messenger service.

Work permits.—Under 16, any occupation during school term; issued by school superintendent upon: (1) Completion of common schools in district and ability to read and write English; (2) proof of age by (*a*) birth certificate, or (*b*) affidavit of parent or guardian; (3) certificate of physical fitness.

Employer to return permit to issuing officer when child leaves.

Education.—School attendance compulsory between 8 and 18 entire school year.

Exemptions: Children who have completed eighth grade; children of 14 between April 1 and November 1 in cases of poverty, except in first and second class cities.

Enforcement.—Department of labor (St. Paul); truant officers.

Violations.—Minimum penalties (first offense): (1) Emplyer, $25; (2) parent, $25; (3) false affidavit (maximum), $50.

MISSISSIPPI.

Age limits.—Boys 12, girls 14, cotton and knitting mills.

Hours.—8-hour day, 48-hour week, boys under 14, girls under 16, same establishments.

10-hour day, 60-hour week, other employees, same establishments.

10-hour day, 60-hour week, females, all occupations.

Exemption: Domestic service.

Night work prohibited.—7 p. m. to 6 a. m., boys under 14, girls under 16, cotton and knitting mills.

Work permits.—Under 16, affidavit of parent or guardian as to age and school attendance.

Enforcement.—State factory inspector (Jackson).

Violations.—Minimum penalty (first offense): Employer, $50.

MISSOURI.

Age limits.—Boys 10, girls 16, selling anything in streets or public places.

14 years, any gainful occupation.

Exemption: Agriculture and domestic service.

14 years, singing, dancing, begging, peddling, acrobat, immoral or injurious exhibition.

Exemption: Children taking part without pay in school, church, or charitable entertainments.

16 years, specified dangerous occupations, including places of amusement, moving-picture shows, bowling alleys, saloons, pool or billiard rooms, wholesale drug stores.

16 years, and all females in mines.

Exemption: Boys under 16 who can read and write.

Minors and women, cleaning machinery in motion.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

8-hour day, all persons in mines.

9-hour day, 54-hour week, females, manufacturing, mechanical or mercantile establishment, factory, workshop, laundry, bakery, restaurant, place of amusement, stenographic or clerical work, express or transportation company, public-utility business, common carrier, public institution.

Exemptions: Canneries for 90 days a year in places less than 10,000. Telegraph and telephone companies.

Night work prohibited.—7 p. m. to 7 a. m., under 16, any gainful occupation.

Work permits.—Under 16, any gainful occupation; issued by school superintendent upon: (1) Ability to read and write English. (2) Proof of age by (*a*) passport, or (*b*) birth or baptismal certificate, or (*c*) other religious record, or (*d*) affidavit of parent or guardian. (3) Statement of issuing officer that child fulfills requirements and is physically fit for work, doubtful cases to be determined by physician.

Employer to return permit to child when child leaves.

Education.—School attendance compulsory between 8 and 14 (16 if unemployed) not less than three-fourths of school year.

Enforcement.—Department of factory inspection (Jefferson City).

Violations.—Maximum penalty, any provision of act, $100.

MONTANA.

Age limits.—16 years, mine, smelter, workshop, factory, railroad, elevator, where machinery is operated, telegraph, telephone, or messenger company, any occupation dangerous to health or morals.

16 years, singing, dancing, begging, peddling.

Hours.—8-hour day, all persons in mines.

9-hour day, females, manufacturing, mechanical, or mercantile establishment, telephone exchange or office, laundry, hotel, restaurant, telegraph office.

Exemption: 10-hour day, retail stores, week before Christmas.

Work permits.—Under 14, approved by school superintendent on satisfactory proof of age and completion of certain studies.

14–16, approved by school superintendent on ability to read and write English.

Age certificate granted to children of 16 on application to commissioner of labor and industry. Employer to countersign and return to commissioner.

Education.—School attendance compulsory between 8 and 14 entire school year (16 if illiterate or unemployed). School year not less than 16 weeks.

Enforcement.—Department of labor and industry (Helena); bureau of child and animal protection; county attorneys.

Violations.—Minimum penalty, $25.

NEBRASKA.

Age limits.—14 years, theater, concert hall, place of amusement, and place where intoxicating liquors are sold, mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, elevator, factory, workshop, as messenger or driver therefor.

16 years, occupations dangerous to health or morals.

Hours.—8-hour day, 48-hour week, under 16, occupations prohibited under 14, beetfields.

9-hour day, 54-hour week, females, manufacturing, mechanical or mercantile establishment, laundry, hotel, restaurant, office, by any public service corporation, cities of 5,000 or more.

Night work prohibited.—8 p. m. to 6 a. m., under 16, occupations to which 8-hour day applies; 10 p. m. to 6 a. m., females, occupations to which 9-hour day applies.

Work permits.—Under 16, occupation prohibited under 14; issued by school superintendent upon: (1) Completion of 8th grade or attendance at night school, ability to read and write English; (2) proof of age by (*a*) passport or (*b*) birth or baptismal certificate or (*c*) other religious record or (*d*) affidavit of parent or guardian; (3) statement of issuing officer that child fulfills requirements and is physically fit for work, doubtful cases to be determined by physician.

Employer to return permit to school official in district where child lives when child leaves.

Education.—School attendance compulsory between 7 and 15 at least 12 weeks, and two-thirds of school year if schools are in session more than 12 weeks.

Attendance compulsory to 16 entire school year in cities.

Enforcement.—Deputy commissioner of labor (Lincoln); board of inspectors of child labor, composed of 5 persons, 2 to be women; truant officers.

Exemption: Children 14 or over necessarily employed.

Violations.—Maximum penalties (first offense): (1) Employer, $50; (2) parent, $50; (3) false affidavit, $50.

NEVADA.

Age limits.—Boys 14, girls 16, store, shop, factory, mine, and inside employment not connected with farm or housework.

Exemption: Children with permit from judge.

14 years, and occupation during school hours.

16 years, specified dangerous occupations, including mines, quarries, laundries, tobacco factories, distilleries, breweries.

18 years, begging, messenger to immoral house, injurious exhibition.

Hours.—8-hour day, 48-hour week boys under 16, girls under 18, any gainful occupation.

Exemption: Agriculture and domestic service.

8-hour day, all persons in mines, smelters.

Night work prohibited.—10 p. m. to 5 a. m., under 18, messenger service.

Work permits.—Employer to furnish proof upon demand of school official that child employed during school hours is over 14.

Education.—School attendance compulsory between 8 and 16 entire school year.

Exemption: Cases of poverty; children who have completed 8th grade.

Enforcement.—State labor commissioner (Carson City).

Violations.—Minimum penalties (first offense): (1) Employer, $5; (2) parent, $5.

NEW HAMPSHIRE.

Age limits.—Boys 10, girls 16, selling anything in streets; 10 years, bootblacks.

14 years, mill, factory, workshop, quarry, mercantile establishment, tenement-house manufactory or workshop, store, business office, telegraph or telephone office, restaurant, bakery, hotel, barber shop, apartment house, bootblack stand; errand, delivery, or messenger service.

14 years, singing, playing, dancing, acrobat.

Minors and women, barrooms.

Hours.—11-hour day, 58-hour week, boys under 16, girls under 18, and gainful occupation.

Exemption: Agriculture and domestic service.

10¼-hour day, 55-hour week, females and minors under 18, manufacturing, mechanical or mercantile establishment, laundry, restaurant, confectionery store, express or transportation company.

Exception: Mercantile establishments, 7 days preceding Christmas.

Night work prohibited.—7 p. m. to 6 a. m., boys under 16, girls under 18, any gainful occupation.

Exemptions: Agriculture and domestic service; over 16, retail stores and telephone exchanges; boys over 14 after 5 a. m. on newspaper routes; boys over 12 between 4 p. m. and 8 p. m. on newspaper routes.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Attendance at school 300 half days during year previous and ability to read and write English; (2) proof of age by (*a*) passport, or (*b*) certificate of birth or baptism, or (*c*) public record; (3) certificate of physical fitness.

Employer to return permit to inspector when child leaves.

Vacation permits.—Issued by school superintendent for 3 months on same requirements as for regular permits except (1).

Education.—School attendance compulsory between 8 and 14 entire school year (16 unless completed elementary school 8th grade).

Enforcement.—Superintendent of public instruction appoints three State inspectors; truant officers.

Violations.—Minimum penalties (first offense): (1) Employer, $5; (2) parent, $5; (3) false affidavit, $5.

NEW MEXICO.

Age limits.—14 years, mines (constitution).

Education.—School attendance compulsory between 7 and 14 entire school year.

NEW JERSEY.

Age limits.—14 years, newspaper plant, printery, factory, workshop, mill, commercial laundry, place where printing or manufacture of goods of any kind is carried on, mine or quarry, mercantile establshment.

15 years, saloons.

15 years, acrobat, immoral or injurious exhibition.

16 years, specified dangerous occupations.

16 years, cleaning machinery in motion.

18 years, singing, playing, begging, mendicant occupations.

Hours.—8-hour day, 48-hour week, under 16, occupations prohibited under 14. (No work on Sunday.)

10-hour day, 60-hour week, females, manufacturing or mercantile establishment, bakery, laundry, restaurant.

Exemption: 6 working days preceding Dec. 25; canneries.

Night work prohibited.—7 p. m. to 7 a. m., under 16, occupations prohibited under 14.

7 p. m. to 6 a. m., 10–16, light occupations.

Exemption: Agriculture.

10 p. m. to 5 a. m., under 21, messenger service, cities of 1st class; under 18, cities of 2d class.

Work permits.—Under 16 (occupations not specified); issued by supervisor of school exemption certificates upon: (1) Proof of age by (*a*) birth certificate, or (*b*) passport or baptismal certificate, or (*c*) other documentary evidence, or (*d*) physical examination; (2) certificate of physical fitness; (3) completion of 5th grade.

Employer to return permit to issuing officer when child leaves.

Child receives employer's certificate from issuing officer to be filled in by employer, giving nature of work, salary, etc., and returned to issuing officer.

Special permits.—10–16 for employment when schools are not in session; issued by supervisor of school exemption certificates in cases of necessity for selling newspapers, bootblacking, and other light occupations on same evidence of age as for regular permit.

Exemption: Agriculture.

Education.—School attendance compulsory between 7 and 16 entire school year.

Exemption: 14 if regularly employed.

Enforcement.—Department of labor (Trenton); attendance officers.

Violations.—Minimum penalties (first offense): (1) Employer, $50; (2) false affidavit, $50.

Street work (city ordinances).—Elizabeth: Boys 10, girls 16, selling newspapers. Permit required under 16; issued by board of education on satisfactory proof of age.

Newark: Boys 10, girls 16, selling newspapers. Permit required under 14; issued by board of education on satisfactory proof of age.

Trenton: Boys 10, selling newspapers, bootblacking. Permit required under 14; issued by commissioner of public instruction on satisfactory proof of age.

NEW YORK.

Age limits.—Boys 12, girls 16, selling newspapers, periodicals, cities of 1st, 2d, and 3d class.

14 years, factory, including tenement home work and cannery sheds.

14 years, mercantile establishment, business office, telegraph office, restaurant, hotel, apartment house, theater, or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, errand, delivery, or messenger service.

16 years, singing, dancing, theatrical exhibition.

Exemption: Children in speaking parts with permit from mayor.

16 years, specified dangerous occupations. 16 years and all females, mines and quarries.

18 years and all females, extrahazardous occupations.

18 years and all females, barrooms.

18 years, boys operating elevators.

Hours.—6-hour day, boys over 12 gathering produce.

8-hour day, 48-hour week, under 16, occupations prohibited under 14.

9-hour day, 54-hour week, boys 16–18, all females, factories.

Exemptions: Boys 16–18 in canneries, June 15–Oct. 15; 10-hour day, 60-hour week, females 18 and over, canneries, June 15–Oct. 15; 12-hour day, 66-hour week, females over 18, canneries, June 25–Aug. 5 upon ruling of industrial commission.

9-hour day, 54-hour week, females over 16, mercantile establishments.

Exemption: Dec. 18–24.

Close of school to 6.30 p. m., boys over 12 carrying newspapers on routes.

5.30 a. m. to 8 a. m., close of school to 6.30 p. m., boys over 14 carrying newspapers on routes.

Night work prohibited.—5 p. m. to 8 a. m., under 16, factories.

6 p. m. to 8 a. m., under 16, occupations prohibited under 14 other than factories.

Exemption: Children on stage.

9 p. m. to 6 a. m., females 16–21, factories.

12 m. to 4 a. m., boys 16–18, factories.

10 p. m. to 6 a. m. all females, factories.

10 p. m. to 7 a m., females over 16, mercantile establishments.

Exemption: December 18–24.

8 p. m. to 6 a. m., boys under 16, street work, cities of 1st, 2d, 3rd class.

10 p. m. to 5 a. m., under 21, messengers, cities of 1st, 2d class.

Work permits.—Under 16, occupations prohibited under 14; issued by health officer upon: (1) Completion of 6th grade; (2) proof of age by (*a*) birth certificate, or (*b*) certificate of graduation, or (*c*) passport or baptismal certificate, or (*d*) other documentary evidence, or (*e*) physical examination; (3) certificate of physical fitness.

Employer to return permit to child when child leaves.

Street work permits.—Under 14; issued by board of education on (1) satisfactory proof of age and (2) attendance at school.

Physical examination in factories.—Children 14–16 in factories to be physically examined by medical inspector of industrial commission. Work permit may be canceled if child is reported physically unfit.

Education.—School attendance compulsory between 7 and 14, places of 5,000 or more, entire school year (not less than 160 days); between 8 and 14, places less than 5,000, entire school year. 16 years anywhere unless employed.

Boys 14–16 in cities of 1st and 2d class who have not completed 8th grade must attend night school not less than 6 hours a week for not less than 16 weeks.

Continuation Schools.—Minors 14 and 15, regularly employed, who have not completed 8th grade may be required to attend continuation schools (where established) 4 to 8 hours a week, not less than 36 weeks a year, between 8 a. m. and 5 p. m.

Enforcement.—Industrial commission (Albany) in cities of 1st and 2d class; health officers enforce mercantile law. Truant and police officers enforce necessary law in cities not of 1st or 2d class.

NORTH CAROLINA.

Age limit.—12 years, mines.

13 years, factories.

Exemption: Apprentices who have attended school 4 months in preceding year.

Hours.—60-hour week, minors and women, factory, manufacturing establishment.

11-hour day, 60-hour week, all persons in such establishments.

Exemption: Engineers, firemen, yard hands, etc.

Night work prohibited.—9 p. m. to 6 a. m., under 16, factories.

Work permits.—Parent or guardian required to furnish written statement of age and certificate as to school attendance.

Education.—School attendance compulsory between 8 and 12 years four months each year. Special attendance laws already in force not repealed: Mitchell County, between 8 and 15; Polk County, between 7 and 15.

Exemption: Cases of poverty.

Enforcement.—Bureau of labor and printing (Raleigh) collects and publishes information but has no power to enforce; attendance officers.

NORTH DAKOTA.

Age limits.—14 years, mine, factory, workshop, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house, errand, delivery, messenger service.

16 years, specified dangerous occupations including bowling alleys.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

Night work prohibited.—7 p. m. to 7 a. m., under 16, any gainful occupation.

Work permits.—Under 16, mine, factory, workshop, mercantile establishment; issued by school superintendent upon: (1) Attendance at school 120 days during year preceding application, ability to read and write English, knowledge of fundamental subjects; (2) proof of age by (*a*) passport, or (*b*) birth or baptismal certificate, or (*c*) other religious record, or (*d*) affidavit of parent or guardian; (3) statement of issuing officer that child fulfills requirements and is physically fit for work, doubtful cases to be determined by physician.

Employer to return permit to child when child leaves.

Education.—School attendance compulsory between 8 and 15, entire school year.

Exemption: Cases of poverty.

Enforcement.—Peace officers report violations to school board; department of agriculture and labor collects and publishes statistics.

Violations.—Minimum penalties: (1) Employer, $20; (2) false affidavit, $20.

OHIO.

Age limit.—14 years, singing, playing, dancing, motion-picture exhibition, begging, peddling, as acrobat, etc.

Exemption: Children taking part without pay in school, church, or charitable entertainment.

Boys 15 years, girls 16 years, mill, factory, workshop, mercantile or mechanical establishment, tenement house manufactory or workshop, store, office, office building, restaurant, boarding house, bakery, barber shop, hotel, apartment house, bootblack stand or establishment, public stable, garage, laundry, place of amusement, club, or as a driver, brick or lumber yard, construction or repair of buildings, distribution, transmission or sale of merchandise.

Boys 15 years, girls 21 years, transmission of messages.

16 years, specified dangerous occupations, including laundries, bowling alleys, poor or billiard rooms.

Boys 16 years, girls 21 years, mines and quarries.

18 years, specified extrahazardous occupations.

21 years, saloons.

Hours.—8-hour day, 48-hour week, boys under 16, girls under 18, occupations prohibited to boys under 15, girls under 16; 10-hour day, 54-hour week, boys under 18, girls under 21, same occupations.

Night work prohibited.—6 p. m. to 7 a. m., boys under 16, girls under 18, occupations prohibited to boys under 15, girls under 16; 10 p. m. to 6 a. m., boys under 18, girls under 21, same occupations; 9 p. m. to 6 a. m., boys under 18, messenger service.

Work permits.—Boys under 16, girls under 18, occupations prohibited to boys under 15, girls under 16; issued by school superintendent upon: (1) Employer's agreement to employ child and to return permit to issuing officer when child leaves; (2) completion of 6th grade (boys), 7th grade (girls); (3) proof of age by (*a*) passport or baptismal certificate, or (*b*) transcript of birth certificate, or (*c*) other documentary evidence, or (*d*) physician's certificate; (4) certificate of physical fitness.

Vacation permits.—Boys under 16, girls under 18, upon same requirements as regular permits, except (2).

Education.—Day school attendance compulsory entire school year for boys between 8 and 15 (16 unless completed 6th grade and employed); for girls between 8 and 16.

Continuation schools.—Boys of 15, regularly employed, who have not completed 8th grade required to attend continuation schools (where established) not more than 8 hours a week between 8 a. m. and 5 p. m.

Enforcement.—Industrial commission, through chief inspector of workshops and factories and chief inspector of mines (Columbus).

Penalties.—Minimum penalties (first offense): (1) Employer, $5; (2) parent, $5; (3) false affidavit, $25.

Street work, Cincinnati (*city ordinance*).—Boys 10, girls 16, selling anything, bootblacking; boys under 14 must have badge and must not work between 8 p. m. and 6 a. m. except election day.

OKLAHOMA.

Age limits.—14 years, factory, workshop, theater, bowling alley, pool hall, steam laundry.

16 years, specified dangerous occupations. 16 years and all females, mines and quarries.

16 years, girls, selling newspapers and periodicals.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

Exemption: Agriculture and domestic service.

8-hour day, all persons in mines.

9-hour day, females, cities of 5,000 or over, manufacturing, mechanical or mercantile establishment, laundry, bakery, hotel, restaurant, office building, warehouse, telephone establishment, office, printing establishment, bookbindery, theater, show house, place of amusement.

Exemption: Pharmacists, stenographers, nurses.

Night work prohibited.—6 p. m. to 7 a. m., boys under 16, girls under 18, occupations prohibited under 14.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1)Proof of age by (*a*) school census, or (*b*) birth certificate, or (*c*) county or city register, or (*d*) physician's affidavit of date of birth, or (*e*) affidavit of parent if child is 60 inches high and weighs 80 pounds; (2) ability to read and write English and attendance at school full term of previous year; (3) statement of issuing officer that child fulfills requirements and is physically fit for work, doubtful cases to be determined by physician.

Employer to return permit to child when child leaves.

Education.—School attendance compulsory between 8 and 16 two-thirds of school year.

Enforcement.—Department of labor (Oklahoma); truan officers; mine inspector.

Violations.—Minimum penalty (first offense), $10.

OREGON.

Age limits.—14 years, factory, workshop, mercantile establishment, store, business office, restaurant, bakery, hotel, apartment house.

16 years, messenger service.

16 years, public entertainment where admission is charged.

Exemption: Children with permit from judge of juvenile court.

18 years, operating elevators, logging engineers.

Hours.—8-hour day, all persons in mines.

8-hour 20 min. day, 50-hour week, girls under 18, manufacturing or mercantile establishment, millinery, dressmaking or hairdressing shop, laundry, hotel, restaurant, telephone or telegraph establishment.

8-hour 20 min. day, 50-hour week, females, mercantile establishments (Portland).

9-hour day, 54-hour week, females, manufacturing establishments (Portland).

10-hour day, 60-hour week, under 16, any industry.

54-hour week, females, any industry.

Exemption: 10-hour day, 60-hour week, fruit and vegetable canneries; 6 weeks, between May 1st and Dec. 1st.

Night work prohibited.—6 p. m. to 7 a. m., under 16, any industry.

After 6 p. m., girls under 18, occupations limited to 8-hour 20-min. day.

After 6 p. m., females, mercantile establishments (Portland).

After 8.30 p. m., females, mercantile, manufacturing establishment, laundry.

Exemption: Telegraph. telephone company, confectionery establishment, restaurant, hotel.

10 p. m. to 5 a. m., under 18, messenger service.

Work permits.—Under 16, occupations prohibited under 14; issued by secretary of board of inspectors of child labor upon: (1) Proof of age by (*a*) school census or passport, or (*b*) birth or baptismal certificate, or (*c*) other religious record, or (*d*) town or city register; (2) attendance at school 160 days during year previous, ability to read and write English, knowledge of fundamental subjects.

Employer to return permit to child when child leaves.

Vacation permits.—12–14, vacations over 2 weeks; issued by board of inspectors of child labor for suitable work.

Education.—School attendance compulsory between 9 and 15, entire school year.

Exemption: Children who have completed 8th grade.

Enforcement.—Board of inspectors of child labor.

Industrial welfare commission to regulate hours, wages, and conditions of labor of women and minors.

Violations.—Minimum penalties (first offense): (1) Employer, $10; (2) parent, $5.

PENNSYLVANIA.

Age limits.—Boys 12, girls 21, selling anything in street.

Boys 14, girls 21, any other street occupation.

14 years, any occupation.

15 years, acrobatic, immoral employment, dance house, place of entertainment where liquors are sold.

16 years, specified dangerous occupations, including tobacco factories, bowling alleys, pool or billiard rooms. 16 years and all females in mines.

18 years, extra hazardous occupations.

18 years, mendicant occupations.

21 years, where liquors are sold.

Hours.—9-hour day, 51-hour week, under 16, any occupation.

10-hour day, 54-hour week, females, any occupation.

Exemptions: Fruit and vegetable canneries; nurses in hospitals.

Night work prohibited.—8 p. m. to 6 a. m., under 16, any occupation.

9 p. m. to 6 a. m., girls under 21, any occupation.

Exemption: Telephone operators over 18.

10 p. m. to 6 a. m., females, manufacturing establishments.

Exemption: Managers, stenographers, clerks, etc.

8 p. m. to 6 a. m., boys under 16, girls under 21, any street occupation.

8 p. m. to 6 a. m., under 21, messenger service.

9 p. m. to 5 a. m., under 18, bakeries.

Work permits.—Under 16, any occupations, issued by school superintendent upon: (1) Employer's statement of intention to employ child, giving nature of employment; (2) completion of 6th grade; (3) certificate of physical fitness; (4) proof of age by (*a*) birth certificate, or (*b*) baptismal certificate, or (*c*) passport, or (*d*) other documentary proof, or (e) physical examination.

Permit to be mailed to employer and returned by mail to issuing officer when child leaves.

Vacation permits.—14–16, issued for employment on days when school is not in session on same requirements as for regular permits, except (2).

General exemption.—Agriculture and domestic service in private homes.

Education.—School attendance compulsory between 8 and 16 entire school year.

Exemption: 14 if employed and literate.

Continuation schools.—Minors 14 and 15, regularly employed, required to attend continuation schools (where established) not less than 8 hours a week between 8 a. m. and 5 p. m., but not on Saturdays.

Enforcement.—Department of labor and industry (Harrisburg); attendance officers, police.

Violations.—Minimum penalty (first offense): Employer, $10.

RHODE ISLAND.

Age limits.—Boys 12, girls 16, selling anything, bootblacking, cities of 70,000 or over.

14 years, factory, manufacturing, or business establishment.

16 years, theatrical exhibition.

Exemptions: Children with written consent of mayor; children taking part without pay in school, church, or charitable entertainments.

16 years, cleaning machinery in motion.

18 years, operating elevators.

Minors and women in barrooms.

Hours.—10-hour day, 54-hour week, under 16, and all females, factory, manufacturing, mechanical, business, or mercantile establishment.

Night work prohibited.—8 p. m. to 6 a. m., under 16, occupations prohibited under 14; 9 p. m. to 5 a. m., boys under 16, selling, bootblacking; 10 p. m. to 5 a. m., under 21, messenger service.

Work permits.—Under 16, occupations prohibited under 14; issued by school committee upon: (1) Proof of age by (*a*) birth certificate or (*b*) baptismal certificate or (*c*) passport; (2) ability to read and write English; (3) certificate of physical fitness; (4) employer's statement of intention to employ child.

Employer to return permit to school committee which issued it when child leaves.

Street work permits.—Under 16; issued by truant officer or school committee upon statement of principal that child is attending school and is physically fit for work.

Education.—School attendance compulsory between 7 and 15 entire school year.

Exemption: Children who have completed 8th grade; 14 and regularly employed.

Enforcement.—Department of factory inspection (Providence); truant officers, probation officers, police.

Violations.—Meximum penalties: (1) Employer, $500; (2) false affidavit, $500.

SOUTH CAROLINA.

Age limits.—12 years, factory, mine, textile establishment.

14 years, messenger service, cities of 5,000 or over.

14 years, cleaning gears in proximity to machinery in motion.

Hours.—10-hour day, 60-hour week, all operatives, cotton and woolen manufacturing establishments. Maximum 11 hours a day, except for making up lost time.

12-hour day, 60-hour week, females, mercantile establishments.

Night work prohibited.—8 p. m. to 6 a. m., under 16, occupations prohibited under 12.

Exemption: 9 p. m. to make up lost time; 10 p. m., females, mercantile establishments; 10 p. m. to 5 a. m., under 18, messenger service.

Work permits.—Under 14, employer to require statement of child's age from parent or guardian. Duplicate sent to commissioner of agriculture, commerce, and industries, who issues permit.

Education.—School attendance compulsory (in school districts where adopted) between 8 and 14 entire school year (16 unless employed or literate). Four months in agricultural districts, or full term if less; does not apply to children engaged in work at home.

Exemptions: Cases of poverty.

Enforcement.—Commissioner of agriculture, commerce, and industries (Columbia).

Violations.—Minimum penalties (first offense): (1) Employer, $10; (2) parent, $10; (3) false affidavit, $10.

SOUTH DAKOTA.

Age limits.—14 years, factory, workshop, mine, mercantile establishment.

Exemptions: Mercantile establishments during school vacations; cases of poverty, with permit from school superintendent.

16 years, occupations dangerous to health or morals.

21 years, barrooms.

Hours.—10-hour day, 60-hour week, under 16.

Exemption: May be employed until 10 p. m. on Saturday and 10 days before Christmas.

10-hour day, children under 14 and all females.

Exemption: Farm work and domestic service.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent, stating age of child, ability to read and write English, or that the child is regularly attending night school or attended during past 12 months.

Education.—School attendance compulsory between 8 and 14 entire school year (may be decreased to 16 weeks by district board).

Enforcement.—County superintendent of schools may visit establishments; mining inspector.

Violations.—Minimum penalty (first offense): Employer, $10.

TENNESSEE.

Age limits.—14 years, mill, factory, workshop, laundry, telegraph or telephone office, errand, delivery, or messenger service.

16 years, dangerous occupations including mines and quarries.

Hours.—10½-hour day, 58-hour week, under 16 and all females, workshop, factory. Must be one shorter day each week.

Night work prohibited.—6 p. m. to 6 a. m., under 16, occupations prohibited under 14.

10 p. m. to 5 a. m., under 18, messenger service.

Work permits.—Sworn statement of parent or guardian as to age of child to be kept on file by employer for every child under 16.

General exemption.—Canneries exempt from all provisions except 14-year limit during school hours and 16-year limit for dangerous occupations.

Education.—School attendance compulsory between 8 and 14 (16 unless regularly employed) 80 days, or full term where session is shorter; entire school year in cities of 5,000 or over.

Enforcement.—Department of workshop and factory inspection (Nashville); commissioner of bureau of labor and mining statistics.

Violations.—Minimum penalties (first offense): (1) Employer, $25; (2) parent, $25.

TEXAS.

Age limits.—15 years, manufacturing or other establishment using dangerous machinery, about machinery in mill or factory, distillery, brewery, manufacture of goods for immoral purposes, messenger to immoral house, any employment dangerous to health or morals.

17 years, mine, quarry.

Minors and women, barrooms.

Hours.—9-hour day, 54-hour week, females, any industry.

Exemptions: Stenographers, pharmacists; 54-hour week, females, laundries; 10-hour days, 60-hour week, females, cotton, woolen factories.

Education.—School attendance compulsory between 8 and 14, 60 days for year beginning Sept., 1916; 80 days for year beginning Sept., 1917; 100 days for year beginning Sept., 1918, and thereafter.

Exemption: Children of 12 who have completed 4th grade and whose services are needed.

Enforcement.—Bureau of labor statistics (Austin).

Violations.—Minimum penalty: Employer, $50.

UTAH.

Age limits.—Boys 12, girls 16, selling anything in streets, cities of 1st and 2d class.

12 years, bootblacks.

14 years, specified dangerous occupations, manufacture of goods for immoral purposes, quarry, mine, coal breaker, laundry, tobacco warehouse, cigar factory, cigar store or stand, distillery, brewery, theater, concert hall, saloon, pool room, operating automobile, motor car, motor truck, elevators, bowling alleys.

21 years, females, where liquors are manufactured or dispensed.

21 years, messengers to immoral resorts or other objectionable places.

All females in mines.

54-hour week, boys 14, girls 16, any gainful occupation.

Exemption: Domestic service, agriculture, fruit or vegetable packing.

Hours.—8-hour day, all persons in mines.

54-hour week, boys 14, girls 16, any gainful occupation.

Exemption: Domestic service, agriculture, fruit or vegetable packing.

9-hour day, 54-hour week, females, manufacturing, mechanical, mercantile establishment, laundry, hotel, restaurant, telephone or telegraph establishment hospital, office, express, or transportation company.

Night work prohibited.—9 p. m. to 5 a. m., under 21, messenger service; 9 p. m., under 16, selling, bootblacking.

Work permits.—Issued by school superintendent upon attendance at school 100 days during year previous and ability to read and write English.

Street work permits.—Under 16; issued by school superintendent upon (1) satisfactory proof that child is 12 or over, and (2) written statement of principal that child is attending school and is physically fit for work.

Education.—School attendance compulsory between 8 and 16 twenty weeks each year; 30 weeks, cities of 1st and 2d class.

Exemption: Cases of poverty.

Enforcement.—Bureau of immigration, labor and statistics (Salt Lake City); truant officers.

Violations.—Minimum penalties (first offense): (1) Employer, $25; (2) parent, $25.

VERMONT.

Age limits.—14 years, mill, factory, quarry, workshop.

Exemption: Places employing less than 10.

16 years, railroading, mining, manufacturing, quarrying, hotel, bowling alley, messenger service during school hours or unless completed elementary school.

16 years, specified dangerous occupations, including tobacco factories.

Hours.—9-hour day, 50-hour week, occupations prohibited under 16 during school hours.

11-hour day, 58-hour week, under 18 and all women, manufacturing and mechanical establishments.

Night work prohibited.—8 p. m. to 7 a. m., under 16, occupations limited to 9 hours a day.

Work permits.—Under 16 for occupations prohibited during school hours; issued by town superintendent, certifying that child has completed elementary school.

Employer may require (must require on demand of attorney) parent or guardian to furnish certificate of age.

Education.—School attendance compulsory between 8 and 16 at least 170 days.
Exemption: Completed 8 or 9 grades or is 15 and has completed 6 grades.
Enforcement.—State factory inspector (Montpelier).
Violations.—Minimum penalty (first offense): Any provision, $5.

VIRGINIA.

Age limits.—Boys 10, girls 16, selling newspapers, periodicals, cities of 5,000 or over.

14 years, factory, workshop, mine, mercantile establishment, laundry, bakery, brick or lumber yard, distribution, transmission or sale of merchandise, messenger service (cities of 5,000 or over).

14 years, peddling, acrobat, immoral or injurious exhibition.

21 years, and all females where liquors are manufactured or sold.

Exemption: Hotels, mercantile establishments (in country).

Hours.—10-hour day, under 16, occupations prohibited under 14.

10-hour day, females, factory, workshop, laundry, mercantile or manufacturing establishment.

Exemption: Canneries and fish-packing establishments in the country; bookkeepers, stenographers, cashiers, office assistants.

Night work prohibited.—9 p. m. to 7 a. m., under 16, occupations prohibited under 14.

7 p. m., under 14, distribution, transmission or sale of merchandise.

10 p. m. to 5 a. m., under 18, messenger service.

Work permits.—Under 16, occupations prohibited under 14; issued by notary public upon proof of age by (*a*) birth certificate, or (*b*) passport or baptismal certificate, or (*c*) other documentary proof, or (*d*) affidavit of parent or guardian.

Employer to return permit to issuing officer when child leaves.

General exemptions.—Establishments owned or operated by parents.

Fruit and vegetable canneries, July 1st–Nov. 1st.

Mercantile establishments, towns of 2,000 or less.

12–14 released from operation of act with permit from circuit or corporation court.

Education.—School attendance compulsory between 8 and 12 at least 12 weeks each year if illiterate. Adopted by following counties and cities:

Counties: Alleghany, Henrico, Rockingham, Shenandoah, Wise.

Cities: Bristol, Clifton Forge, Lynchburg, Petersburg, Richmond.

Enforcement.—Bureau of Labor and Industrial Statistics (Richmond).

Violations.—Minimum penalties (first offense): (1) Employer, $25; (2) parent, $25.

WASHINGTON.

Age limits.—14 years, factory, mill, workshop, store.

Exemption: 12–14 in cases of poverty with permit from superior court judge.

14 years, boys; 16 years, girls; store, shop, factory, mine, any inside employment not connected with farm or house work unless with permit from judge of superior court.

14 years, boys outside mines, collieries.

16 years and all females, mines.

18 years, begging, immoral or injurious exhibition.

18 years, female, shakers in laundries.

19 years, messengers, cities of 1st class.

Exemption: Boys over 14 with permit from judge of juvenile court.

Hours.—8-hour day, females, mechanical or mercantile establishment, laundry, hotel, restaurant.

Exemption: Fruit and vegetable canneries.

8-hour day, all persons in mines.

Night work prohibited.—8 p. m. to 5 a. m., under 16, bakeries.

7.30 p. m., under 18, mercantile establishments, factories, laundries, dye works.

9 p. m. to 6 a. m., under 18, telegraph, telephone, or mercantile establishment, messenger or parcel delivery service.

Work permits.—Under 15; issued by school superintendent, excusing child from attendance at school, giving age of child and time for which excuse is given.

Education.—School attendance compulsory between 8 and 15 entire school year (16 unless regularly employed or completed 8th grade).

Enforcement.—Bureau of labor (Olympia).

Industrial commission to regulate wages, hours, and conditions of women and minors.

Violations.—Minimum penalty: Employer, $10.

Street work, Seattle (city ordinance).—12 years, selling, performing. Permit from juvenile and humane department or police department required under 18.

WEST VIRGINIA.

Age limits.—14 years, factory, mill, workshop, manufacturing establishment.

Exemptions: Under 14 with permit from commissioner of labor.

15 years, acrobatic, immoral or injurious exhibition.

15 years, dance house, concert hall, theater, etc., where liquors are sold.

16 years and all females in mines.

Exemption: Boys over 14 when schools are not in session.

18 years, singing, playing, begging.

Minors and women, cleaning machinery in motion.

Work permits.—Under 16, occupations prohibited under 14; issued by school superintendent upon: (1) Completion of 4th grade; (2) proof of age by (*a*) passport or (*b*) school census or (*c*) affidavit of parent or guardian; (3) statement of issuing officer that child fulfills requirements and is physically fit for work, doubtful cases to be determined by physician.

Employer to return permit to issuing officer when child leaves.

Education.—School attendance compulsory between 8 and 15, twenty-four weeks.

Enforcement.—Bureau of labor (Charleston).

Violations.—Minimum penalties (first offiense): (1) Employer, $10; (2) parent, $10.

WISCONSIN.

Age limits.—Boys 12, girls 18, selling newspapers and periodicals, cities of 1st class.

Boys 14, girls 18, bootblacking or any other street trade, cities of 1st class.

14 years, factory, manufacturing establishment, workshop, store, hotel, restaurant, bakery, mercantile establishment, laundry, telephone, telegraph or messenger service, delivery of merchandise, or any gainful occupation.

Exemption: 12–14 in vacations, store, office, mercantile establishment, warehouse, telegraph, telephone, or messenger service.

Under 15 years, acrobat in theatrical exhibition, license not to be granted if occupation is immoral or dangerous.

16 years, dangerous occupations, including places where liquors are manufactured, bottled, or sold, theaters, bowling alleys, tobacco factories.

16 years, theatrical, musical, or other performances.

Exemption: Children with permit from judge; children taking part without pay in school, church, or charitable entertainment.

18 years, extra-hazardous occupations, including females in telephone and telegraph service. 18 years and all females in mines and quarries.

Hours.—8-hour day, 48-hour week, under 16, any gainful occupation.

Exemption: 8-hour 30 min. day to close at 12 on Saturday, week to remain 48 hours.

8-hour day, 48-hour week, under 18, cigar factories or stores.

10-hour day, 55-hour week, females, work done between 6 a. m. and 8 p. m.

8-hour day, 48-hour week, females, work done between 8 p. m. and 6 a. m.

Night work prohibited.—6 p. m. to 7 a. m., under 16, any gainful occupation.

7.30 p. m. to 5 a. m., boys under 16, selling newspapers and periodicals, cities of 1st class.

Exemption: 4 a. m. to 6 a. m., boys 14 to 16 distributing newspapers.

8 p. m. to 6 a. m., under 21, messenger service, cities of 1st, 2d, 3d class.

Work permits.—Under 16, occupations prohibited under 14; issued by industrial commission, county, municipal, or juvenile court judge upon: (1) Proof of age by (*a*) birth certificate or (*b*) school record or (*c*) passport or baptismal certificate or (*d*) other satisfactory proof; (2) completion of 5th grade or attendance for 7 years; (3) employer's written statement of intention to employ child.

Statement of actual employment to be filed with issuing officer.

Employer to return permit to issuing officer within 24 hours after child leaves.

Permits may be refused to children who appear physically unfit.

Vacation permits.—12–14; store, office, mercantile establishment, during vacations, on same requirements as for regular permits except (2).

Street-work permits.—Under 16; issued by board of education on proof of age and regular attendance at school.

General exemption.—Agriculture and domestic service.

Education.—School attendance compulsory between 7 and 14 (16 unless regularly employed) entire school year in cities of first class; 8 months in other cities; 6 months in towns and villages.

Continuation schools.—Minors 14 and 15, regularly employed, required to attend continuation schools (where established) 5 hours a week for 6 months, or 4 hours for 8 months, as determined by local board of industrial education.

Enforcement.—Industrial commission (Madison); board of education enforces street trades.

Violations.—Minimum penalties (first offense): (1) Employer, $25; (2) parent, $5.

WYOMING.

Age limits.—14 years; singing, dancing, playing, begging, peddling, acrobat, immoral or injurious exhibition.

14 years; mine, smelter, other specified dangerous occupations.

14 years; messenger to places where liquors are manufactured, packed, or sold.

16 years; actor where liquors are sold, occupations dangerous to health or morals.

Exemption: Children taking part without pay in school, church, or charitable entertainment.

18 years; where liquors are manufactured, packed, or sold.

All women in mines.

Hours.—9-hour day, 56-hour week, under 14, any gainful occupation.

Exemption: Domestic service and agriculture.

10-hour day, 56-hour week, females, manufacturing, mechanical, mercantile, printing, baking, laundering, canning establishment, hotel, telephone exchange, restaurant, theater, place of amusement.

Exemption: Telephone exchanges employing less than 3; railroad hotels and restaurants.

8-hour day, all persons in mines, smelters.

Education.—School attendance compulsory between 7 and 14 entire school year.

Exemption: Cases of poverty.

Enforcement.—None except as to mines by State mine inspector.

Violations.—Minimum penalties (first offense): Employer, $25.

TABLE I.—STATES WHICH HAVE STANDARD PROVISIONS WITHOUT EXEMPTIONS.

(*a*) *14-year limit in factories.*—Alabama, Arizona, Arkansas, Connecticut, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan (15 years; 14 canneries), Minnesota, Missouri, Montana (16 years), Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio (16, girls; 15, boys), Oklahoma, Oregon, Pennsylvania, Rhode Island, Wisconsin.

(*b*) *16-year limit for night work in factories.*—Alabama, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Wisconsin.

(*c*) *8-hour day under 16 in factories.*—Arizona, Arkansas, California, District of Columbia, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Wisconsin.

NOTE.—Montana forbids the employment of children under 16 in factories.

(*d*) *16-year limit in mines and quarries.*—Alabama, Arizona, Arkansas, California, Connecticut, Kentucky, Maryland, Nevada, New York, Ohio, Oklahoma, Tennessee, Texas, Wisconsin.

(*e*) *16-year limit in mines only.*—Colorado, Illinois, Montana, Pennsylvania, Washington.

TABLE II.—STATES WHICH DO NOT HAVE STANDARD PROVISIONS OR WHICH HAVE THEM WITH EXEMPTIONS.

[States marked * have exemptions. States marked † were reported by the 1910 census as having mining products valued at $2,500,000 a year or over.]

(*a*) *No 14-year limit in factories or a 14-year limit with exemptions.*—*California, *Colorado, *Delaware, *District of Columbia, *Georgia, *Idaho, *Indiana, *Maryland, *Mississippi, *Nevada, New Mexico, North Carolina, South Carolina, *South Dakota, *Tennessee, *Texas, *Utah, *Vermont, *Virginia, *Washington, *West Virginia, Wyoming.

(*b*) *No 16-year limit for night work in factories or a 16-year limit with exemptions.*—*Colorado, Georgia, *Maine, Maryland, Nevada, New Mexico, *Mississippi, South Dakota, *Tennessee, Texas, Utah, *Virginia, Washington, West Virginia, Wyoming.

(*c*) *No 8-hour day under 16 in factories or an 8-hour day with exemptions.*—Alabama, *Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, *Indiana, Louisiana, Maine, Maryland, Michigan, *Mississippi, New Hampshire, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, *Washington, West Virginia, Wyoming.

(*d*) *No 16-year limit in mines and quarries or a 16-year limit with exemptions.*—Delaware, District of Columbia, †Florida, †Georgia, †Indiana, †Idaho, *†Iowa, †Kansas, †Louisiana, Maine, †Massachusetts, †Michigan, †Minnesota, Mississippi, †Missouri, Nebraska, New Hampshire, †New Jersey, †New Mexico, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, †South Dakota, †Utah, *†Vermont, †Virginia, *†West Virginia, †Wyoming.

TABLE III.—NIGT MESSENGERS.

21-year limit.—Arizona, Kentucky, Massachusetts, New Jersey (cities of first class; 18 in second-class cities), New York, Pennsylvania, Rhode Island, Utah, Wisconsin.

18-year limit.—Alabama, Arkansas, California, Delaware, Florida, Iowa, Maryland, Michigan, Minnesota, Nevada, New Hampshire, Ohio, Oregon, South Carolina, Tennessee, Virginia, Washington.

TABLE IV.—STREET WORK.

Alabama: Boys 12, girls 18; any street occupation.

Arizona: Boys 10, girls 16; selling; boys 10, bootblacking.

California: Boys 10, girls 18; any street occupation, cities of 23,100 or over.

Colorado: Girls 10; any street occupation.

Delaware: Newsboys 12, news girls 14; other street work—boys 14, girls 16.

District of Columbia: Boys 10, girls 16; selling, bootblacking.

Florida: Newsboys 10, news girls 16.

Iowa: Boys 11, girls 18; any street occupation.

Kentucky: Boys 14, girls 18; any street occupation.

Maryland: Newsboys 10, boys in other street work 14; girls 16; any street occupation.

Massachusetts: Boys 12, girls 18; any street occupation.

Missouri: Boys 10, girls 16; selling.

New Hampshire: Boys 10, girls 16; selling; 10 years, bootblacking.

New Jersey: Boys and girls 10 to 16; licensed for street work.

New York: Newsboys 12, news girls 16.

Pennsylvania: Boys 12, selling; boys 14, any other street occupation; girls 21, any street occupation.

Oklahoma: News girls 16.

Rhode Island: Boys 12, girls 16; selling, bootblacking, cities of 70,000 or over.

Utah: Boys 12, girls 16; selling; 12 years, bootblacks.

Virginia: Newsboys 10, news girls 16.

Wisconsin: In first-class cities, newsboys 12; boys 14, any other street work; girls 18, any street occupation.

STATEMENT OF A. J. McKELWAY, SECRETARY FOR THE SLATER NATIONAL CHILD-LABOR COMMITTEE.

Mr. McKelway. Mr. Chairman and gentlemen of the committee, ever since the three tailors of Tooley Street met together and passed their resolutions, beginning "We, the people of England," we have had innumerable instances of the same sort of thing, namely, of people posing as the representatives of a State or a section or a nation from which they happen to hail. From some of the questions asked by the committee of the representatives of the cotton mills at the former hearing it might be supposed that these cotton manufacturers represented the people of the whole South, which was unanimously opposed to the measure before us. The manufacturers themselves and their attorney, Mr. Kitchin, perhaps unconsciously made the impression that they were speaking for the South; that in some way the South was being attacked by a measure which aims to protect all the people, who must now buy the products of child labor, from partnership in the exploitation of childhood. This is a rather large claim for anyone to make. The South is a tremendous section of the country, stretching from Maryland to Arizona, with a vast population. As a southern man, I have frequently resented the tendency in other parts of the country to regard certain conditions or abuses as characteristically southern. The fact is that there are no social problems in the South that are not common to the whole of the country. I shall attempt not to fall into the same error by saying that I represent the South in its attitude toward child-labor reform. I think, however, that while no vote on the question of child labor has been taken except in one State in the South, of which I shall speak later, the people of the South are in favor of ending this abuse of childhood by any legal or constitutional means. One test of the sentiments of the people, not always a fair test, is legislation. When I accepted the work with the National Child Labor Committee, organized in 1904, the laws for the protection of children in the Southern States, as in a good many other parts of the country, were very meager; the 12-year-age limit was the prevailing rule. There was no factory inspection to amount to anything, night work was almosst universal, and the States of Georgia, Florida, Mississippi, Oklahoma, and Arizona, then a Territory, were without any laws at all for the protection of working children. The census of 1900 shows that 30 per cent of the operatives in southern cotton mills were under 16 years of age, and the ages as reported in that census ranged all the way from 5 to 16 years. Census Bulletin No. 69, entitled "Child Labor in the United States," shows that the census takers were not required to report children at work under 10 years of age, due to the complacent assumption, I presume, that there were none. Some of the enumerators exceeded their instructions and did report such children. Two children of 5 were reported at work, one 6 years of age, twenty-seven of 7, eighty-seven of 8, and two hundred and fifty of 9 years of age; a total of 370 children reported employed in cotton mills from restricted areas in North Carolina, South Carolina, and from the State of Georgia.

There has been a great change for the better, so that to-day every State in the South has a child-labor law and there are only two of them below the 14-year age limit for employment in factories, namely, North and South Carolina. I claim, moreover, that the legislatures do not keep pace with public sentiment in this matter of the exploitation of childhood. Take the State of Arkansas. One of the witnesses declared that Arkansas had a child-labor law which exempted children in cotton factories from its operation. Perhaps the State may have had such a law in the distant past. And to answer here the objection so frequently made before you that this bill was directed against the cotton factories—just as every bill before a southern legislature, if there were any cotton factories in the State, has been misrepresented—the fact is that no child-labor bill was ever passed applying to cotton factories alone, though there have been exemptions forced into such bills by the cotton factories. But the Arkansas Legislature three years ago refused to pass a child-labor bill which it was urged to pass, so we appealed to the people, as they have the initiative in Arkansas, with the result that though only 13,000 names were required on the petition to initiate the legislation 25,000 were secured, and when the people passed upon the bill at the polls it received, in round numbers, 75,000 votes for it, as against 25,000 opposed to it. And more people voted on this question than on any other proposition submitted to them. Yet, in spite of that deliberate mandate by the people themselves that this law should go into effect, the members of the very next Arkansas Legislature strove to repeal it, and it was only by the utmost efforts that the plan came to naught.

Which enables me to make another point in passing, lest I forget it, that eternal vigilance is the price of the liberty of childhood as of all other liberty; and whenever in the last 11 years we have attempted to stack arms in this fight for better legislation, the enemies of child-labor reform have tried to repeal the legislation that was enacted. For example, in Mississippi an excellent child-labor law was passed, with a 14-year age limit and an 8-hour day, for children under 16. In spite of all the threats of the manufacturers to discharge the children they found a way to observe the law. The doffer boys were timed at their work and allowed to go out of the mill when not doffing, so that they were not actually employed more than 8 hours a day—which I considered an evasion of the law, though they had no factory inspector to enforce it then. Nevertheless at the next session of the legislature, although only some 20 mills in Mississippi were interested in the repeal of the legislation, they succeeded in reducing the age limit from 14 to 12 for boys.

So I claim that the people of the South are in favor of any legislation that will protect their children; and I would be ashamed as a southern man if I thought that our people, whenever the facts were put before them, were less humane concerning the protection of their native sons and daughters than the people of New England have shown themselves to be concerning the protection of the foreign-born population who mainly work in their mills and factories. I would hold that the Virginia Conference of Charities and Corrections, that Dr. Mastin of the State Board of Charities, Dr. Flannagan of the State Board of Health, the Rev. Russell Bowie, that eloquent young Epicopal clergyman of Richmond, Va.; Miss Mary Johnston, the distinguished authoress, among good women; and dozens of others whom I could name, that the members of our Virginia Child Labor Committee, who have been fighting year by year for better State legislation, and who have indorsed the Federal child-labor bill, represented public sentiment in that State better than Mr. Fitzgerald, of that several-million-dollar corporation at Danville, Va. I would say that Chief Justice Clark, of North Carolina, was even a better constitutional authority on this bill than the Hon. Mr. David Clark, that Gov. Aycock, and Gov. Glenn, and Gov. Craig, and Gov. William Walton Kitchin, elected, as they were, by the people of North Carolina, were better representatives of public sentiment on this question of child-labor reform than the cotton manufacturers, who have sometimes fought unsuccessfully against their nomination and election, and who have succeeded in persuading the North Carolina Legislature, especially the North Carolina Senate, to disregard practically all the humane recommendations made to them by these governors in their inaugural addresses and messages to the legislature. A large majority of southern Members of Congress voted for this bill last year. As Gov. Kitchin well knew, and as I think Attorney Kitchin will admit, the North Carolina Senate, a body of 50 men, has been controlled by representatives from the cotton manufacturing counties of the State for the last dozen years. More than that, the Committee on Manufactures of the Senate, composed largely of cotton manufacturers and their attorneys—for these always seek to be put upon this committee, and their request is complacently granted—is the committee to which all child-labor bills are referred, so that even when the House, answering to popular demand, has passed a child-labor bill the Senate has defeated it.

The chairman of that committee for the last two sessions, in North Carolina, has been a prominent cotton manufacturer. So that until that system is revolutionized the people of North Carolina are practically powerless to enact child-labor legislation, and North Carolina has made almost no progress in 10 years, the only progress being that night work for children under 16 years has at last been prohibited, and the 12-hour day was recently changed to an 11-hour day for children under 16 years of age. I believe that Gov. Manning, of South Carolina, who is a member of our child-labor committee, and Judge McCulloch, of Greenville, S. C., and many other distinguished gentlemen and ladies of that State who have gone on record, so far as the vote of the State child-labor committee goes, as favoring child-labor legislation, really represent the sentiments of the people of their State better than the three South Carolina manufacturers who, alone of all the manufacturers of the Nation, appeared in opposition to this bill last year, and the two or three who appeared this year opposing it. I believe that Gov. Henderson, of Alabama, who, in his message to the legislature, suggested Federal regulation as a means for solving the difficulty of competition between adjoining Southern States, represents the sentiments of the people of Alabama better than his unsuccessful rival, ex-Gov. Comer, who was defeated for nomination in the second primary in that State because of his well-known opposition to child-labor reform, being a cotton manufacturer himself. I venture to assert that the former chief justice of Mississippi, Chief Justice Whitfield, who is on record as favoring Federal regulation, represents the people of that State better than any cotton manufacturer who may have joined this newly formed organization, the Southern Cotton Manufacturers' Association, who have employed Gov. Kitchin to represent them here. I believe the National Farmers' Union represents the people of the South better than the Southern cotton manufacturers.

So far as Tennessee and Texas are concerned, groups of cotton manufacturers there, because of the higher standards obtaining in these States as compared with the standards in adjoining Southern States, have frequently expressed to me the opinion that we ought to have a Federal child-labor law. And Kentucky has already adopted its provisions, as Oklahoma did almost as soon as it was made a State—its people, by the way, electing Robert Owen, the champion of this bill in the Senate, as Senator rather than his rival, Ex-Gov. Haskell, who had vetoed the first child-labor bill passed by the Oklahoma Legislature. Arizona has put these same standards into effect.

So it does not become a little group of cotton manufacturers, an industry that bulks largely only in the Piedmont section of four Southern States, namely, the Carolinas, Georgia, and Alabama, to come before this committee and strive to inject a sectional issue into this great question by saying, "We, the people of the South, do hereby resolve that we are opposed to this legislation."

And certainly the people of this Nation are in favor of these standards of protection for their children. Under the agreement I made with Gov. Kitchin not to introduce new evidence into this hearing, but only that which was introduced over two years ago before this committee, I beg leave to quote the following statement that I made then, asking the committee to understand that during these two years of State legislative activity the people of many other States, through State action, have put themselves in line with the standards for protecting children laid down in this bill:

> Out of the 91,972,266 people in the continental United States 78,931,619 are citizens of States having adopted the 14-year age limit for the employment of children in factories, while only 13,040,547 are citizens of States not having reached that age limit; that is, 86 per cent of the population, through State legislation, have already adopted the 14-year age limit. When it comes to night work for children under 16, that is prohibited by the laws of States having a population of 77,657,354, and has not yet been adopted in the States having a population of 14,314,912; that is, 85 per cent of the population have already said by State legislation that they believe in the prohibition of night work for children under 16. Taking the 16 great mining States of the country, we find that out of the 50,366,014 people who live in these States, the States having a population of 37,359,433 have enacted the 16-year age limit for mines, while 13,007,581 live in States which have not enacted such a law; that is, 74 per cent of the population of the mining States, as against 26 per cent, have agreed to this provision for the protection of children. When it comes to the eight-hour day for children, we have on the one hand 46,150,275 people who, through State legislation, have enacted the eight-hour day, as compared with 45,821,991 people that have not yet come to this standard; that is, about 50.6 per cent, as against 49.4 per cent, have committed themselves to this principle.

I believe the American Federation of Labor, indorsing this bill, represent the people of the Nation better than the National Association of Manufacturers.

Not being a lawyer, I am, of course, incompetent to discuss a constitutional question before a committee the majority of whom are lawyers. But you will remember that in the course of Gov. Kitchin's remarks the other day he stated that at one period of his argument I had shaken my head at him. It was when he said that no one could contend that a piece of cloth manufactured by the labor of little children was not pure, not good, and not sound, and therefore that it could not be considered an outlaw of commerce. Now, Mr. Chairman, I have been fighting against this child-labor evil for almost more years than I like to confess. I was once pastor of a church in a community in which there were cotton mills. I have taught in a mill school myself. I have been into scores of cotton mills. And when I began this work there were no limitations upon the ages of the children and no limitations as to hours, at least in North Carolina. When I began to be professionally connected with it, as I may say, as secretary of the National Child Labor Committee, I was very sanguine of immediate success. Eleven years ago, when I made my first appearance before the North Carolina Legislature as a representative of the National Child Labor Committee—though I am proud of the fact that Gov. Aycock once told me that I had helped materially, through my editorial work, in putting through the first child-labor bill in a previous legislature in North Carolina—I used to look into the faces of 12-year-old children working in the mills and think to myself, "Little folks, this legislature is going to turn you out of the mills before another year." I remember going to a mill in Raleigh, N. C., whose president now is president of the North Carolina Cotton Manufacturers' Association. I found there a boy of 12 years—and I recited this on the floor of the North Carolina Legislature at the time—who told me, and his mother confirmed his story, that he had been working in the mill for 6 years 12 hours a day, and he hated it with mortal hatred. He could not read or write, and yet he had intelligence enough to know that he had been robbed of his childhood. I say I used to look at these children in factories and say, "You will soon be free, out in God's open air and going to school." And yet, though I did not know it, there were hundreds, nay thousands, of children then unborn who have since been put to work in the cotton mills of these cotton-manufacturing States.

Now for my layman's constitutional argument: Can you not forgive me, with the experience I have had, if I do not regard that piece of cloth manufactured by those little hands as pure and good and sound, but as impure, as bad, as unsound, in itself—as in a sense stained with the blood of little children? My Government, the Federal Government, protects me from buying impure food; it protects me from buying misbranded goods, though they may be just as good as other goods; it protects me from buying oleomargarine when it is called butter, though I may prefer cotton butter to cow butter. But they say you can tell about these things—you can tell the difference between pure food and impure food. It is because no microscope will tell whether a piece of cotton cloth has been manufactured by adult labor or by child labor that I have all the more right to demand that the Federal Government protect me from partnership with the exploiters of childhood through purchasing child-made goods. If over 95 per cent of the people of the Nation have said, through State legislation, that they do not want goods manufactured by the labor of children under 14 years of age, have they not just as much a right to be protected against buying goods manufactured by children as against buying misbranded goods? Why should the manufacturers of North Carolina and South Carolina—alone of all the manufacturing States—be allowed to so mingle their child-made goods, manufactured by the labor of children under 14 years of age, in the general commerce of the United States that you can not tell one piece from any other and say, "We compel you to buy our goods." Why has Congress the right to say that in this District of Columbia, controlled by Congress, no child under 14 years of age shall work in a factory, nor any child under 16 years of age at night, nor any child under 16 for more than eight hours in any one day, and yet confess that it is powerless to protect the people of the District from purchasing child-made goods manufactured in the Carolinas? I may say that another place at which I shook my head at Gov. Kitchin was when he said that the whole purpose of this bill was to protect the producers at the other end of the interstate-commerce line. I deny it. As I have said, one purpose of this bill is to protect the consumer from the purchase of goods made under conditions which are repugnant to his moral sense. And I say that there is no one whose social conscience is developed beyond the embryonic stage that does not recognize the force of that argument as soon as it is presented to him.

I feel sure that Gov. Kitchin, in Raleigh, N. C., if he knew that one factory there was producing an article under abominable conditions as to child labor, woman labor, inhumanly long hours, and other evil conditions, and another factory in the same place was putting out the same article under the best possible conditions, that he would prefer to buy from the latter factory rather than from the former. There is not a man in this committee who would not prefer to buy from the good factory rather than from the bad factory.

And now out of a hundred million people at least ninety-five million have said through their State laws that they believe the labor of children under 14 years of age in factories to be a bad thing. It was always immoral; they have made it criminal, so far as the manufacturing of goods is concerned. Have they no right as consumers of goods to be protected by the only authority that can protect them, namely, the Government of the United States, through the interstate-commerce clause of the Constitution, against becoming, through the innocent purchase of child-made goods, partners with the exploiters of children?

Looking at this question from the point of the development of the social conscience, let me make this suggestion, namely, that at the beginning of this Government the Supreme Court, even with John Marshall as Chief Justice, would not have agreed that the transportation of lottery tickets by express companies could be controlled by Congress. That was a time when there was no such universal condemnation of the lottery as obtained afterwards. But when the lottery evil had become generally recognized throughout the Nation, and the Louisiana lottery alone reared its foul head in New Orleans in violation of the social conscience of the people, defying through its overwhelming influence the good people of Louisiana in their efforts to abolish it, the Supreme Court of the United States virtually said that it could be abolished by Congress through stopping the channels of interstate commerce to its operations.

Mr. Kitchin seemed rather proud of his illustration that neither Webster nor Lincoln ever thought of prohibiting the transportation of the products of slave labor as a possible means of abolishing slavery. Mr. Kitchin has forgotten his history. He has forgotten how evenly balanced the slave States and the free States were in the Congress of the United States. He has forgotten that the very election of Lincoln, a minority President, through the split in the Democratic Party over the slavery issue, was the signal for the secession of South Carolina, followed by the rest of the Confederacy. If by a majority vote such a bill could have been passed in Congress at that time, it would have meant war just as certainly as the election of President Lincoln did mean war, not that the southern people—for one of my grandfathers was a slave owner—would ever have gone to war merely to perpetuate slavery. The fourteenth amendment had not been adopted making the citizen of the State a citizen of the Nation; and the States of the South, afterwards the Confederate States, believed that the Constitution itself would have been violated by the abolition of slavery through congressional action. But suppose there were two States left now in the South which were slave States, with our present-day opinions concerning the evils of slavery, does Mr. Kitchin claim that it would be impossible to prohibit the transportation of goods manufactured by slave labor, say, from North and South Carolina into the rest of the Union? It was proposed only a few years ago to prohibit the importation of rubber from South America manufactured under conditions of slavery.

So with the white-slave traffic. It was only when the social conscience of this country became awakened to the evils of white slavery and of prostitution generally—what Miss Jane Addams calls "a new conscience concerning an ancient evil"—a conscience that has swept the houses of prostitution from nearly all the cities of the Nation—it was only after the awakening of the social conscience concerning this evil that Congress passed, and the Supreme Court sustained, the law making it a crime for a man to pay a 2-cent fare on a ferryboat for a woman who was carried from Jersey City to New York for immoral purposes, the payment of this fare for this transportation bringing the transaction within the power of Congress under the interstate-commerce clause of the Constitution.

So I believe that with the conscience of this whole Nation active against the oppression and exploitation of children in every possible form, the present Supreme Court will sustain an act of Congress, representing as it does the will of so vast a number of people who have expressed that will through State legislation, making the products of child labor outlaws of commerce. Talk about the public health: Is there not moral health as well as physical health, and do we not all suffer in our moral health when we contribute, however innocent we may be through ignorance of the origin of the goods we buy, to the prosperity of the employers of little children, who not only persist in employing them against the common dictates of humanity, but who by defeating State legislation have successfully resisted the protection of these children by their own States, and who then come to Congress and assert that the people of this Nation have nothing to do with the question?

Mr. Chairman, I have met these very same gentlemen who are here in the State legislatures as I indicated in the hearings two years ago. For example, Mr. David Clark, Mr. Samuel Patterson, Mr. W. C. Ruffin, from North Carolina, who urged you here not to pass a Federal law, I met before a joint committee of the house and senate of the North Carolina Legislature in Raleigh about a year ago. They were in a group of some 40 cotton manufacturers who were opposing, and who succeeded in defeating, a bill introduced by Senator Weaver, of Asheville, providing for a 14-year age limit, and providing for an 8-hour day for children under 16; and, more important than anything else, providing for factory inspection. The committee made an unfavorable report on the bill; in fact, I was told by a member of the committee before I got up to speak that they had decided to report the bill unfavorably, and in a 5-minute speech I was not able to change their already formed opinion. When it became apparent that this bill could not pass, a substitute was offered by Senator Nash, of Orange County, providing simply for factory inspection under the Department of Labor, in order that the present law with its 13-year age limit and its 11-hour day, might at least be enforced. For it is common knowledge in North Carolina that there have only been one or two prosecutions for violation of this law since it was enacted in 1907; that there were no prosecutions for violation of the child-labor law preceding that; and that there has only been one conviction for a violation of the child-labor law in the history of North Carolina. The very figures which these gentlemen themselves quoted here before you from the census of 1910, giving the number of children from 10 to 13 years of age employed in the cotton mills of North Carolina, demonstrate that the law was violated. Let me read to you a statement from the report by the Federal Bureau of Labor made in 1908, concerning the violations in North Carolina and South Carolina, from page 186, volume 1, which contains the report on the cotton industry:

> The most extensive violation of the age-limit law was found in South Carolina. In addition to 42 children under 12 years of age who were orphans, children of widows, etc., and who were therefore legally employed, 405 other children under 12 years were found working in the establishments investigated in that State. As shown by the table on page 171, such children constituted 12.3 per cent of the total children employed in the 36 establishments investigated and 2.8 per cent of the total number of employees. Children under the age of 12 years were employed in 34 of the 36 establishments investigated in the State, and 33, or 91.7 per cent, of these 36 establishments less than 1 per cent of the employees were children under the legal age and not legally excepted from the provisions of the law. In 20 establishments between 1 and 5 per cent were thus illegally employed. In 3 establishments between 5 and 10 per cent and in 3 others over 10 per cent of all employees were children under 12 years of age who were not legally excepted from the provisions of the law.
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> In North Carolina the law was only slightly less flagrantly violated. Of the 59 establishments canvassed 44, or 74.6 per cent, were found to employ children under the legal age. In 13 of these establishments less than 1 per cent of the employees were children under 12 years of age, in 19 establishments from 1 to 5 per cent, and in 11 establishments between 5 and 10 per cent. In 1 establishment in North Carolina (No. 44) 12.05 per cent of all employees—a higher percentage than in any other cotton mill investigated in the South, outside of Mississippi, which had no child-labor law—were under 12 years of age. In the 44 establishments illegally employing children a total of 1,751 children were employed, 202 of whom, or 11.5 per cent, were under the legal age. These constituted 8.6 per cent of all the children in the mills investigated in North Carolina, 2.61 per cent of all employees in the establishments illegally employing children, and 1.77 per cent of all the employees at work in all estabishments investigated in the State.

Let it be remembered that the agents of this bureau were required to prove the ages of the children, something that the mill operatives do not require when they employ children, simply taking the word of their parents to that effect, so that their statements as to the number of children employed in their mills really mean that there are so many children under 14 or under 16 as said to be of these ages. I am speaking of North Carolina. As late as 1908 over 74 per cent of the establishments investigated in North Carolina were violating the law. And now what became of the bill simply to provide for factory inspection? Why, it was defeated through the efforts of these same gentlemen, although every governor of North Carolina from Gov. Aycock had asked that the law be enforced through factory inspection, and though Gov. Kitchin himself had said in his message, which was put in evidence the other day that "factory inspection is absolutely essential to the enforcement of our child-labor laws." And yet these same gentlemen who have prevented the enforcement of their own State law come here and talk to you about the unconstitutionality and injustice of a Federal law. I was interested to hear what they had to say about this subject of inspection. One thing they said was that they were opposed to inspection by the commissioner of labor—who, by the way, is not permitted to enter a factory in North Carolina without the permission of the owner—because he was unfriendly to the manufacturers. That is, in order for these gentlemen to agree to the appointment of anyone to protect children under 12 years of age against illegal employment we must have a friendly inspector. And another witness, Mr. David Clark, showed very clearly in his testimony what influences would be brought to bear upon factory inspection in North Carolina. Mr. Clark said: "I do not favor inspection; I have no faith in any inspection. Personally I do not, because it is largely a grafter proposition. My understanding is that if you pay you get a clean bill of health." Whereupon Mr. London asked him this question: "You believe that your mill owners would resort to corruption in order to escape a fair inspection?" Mr. Clark replied: "No more than any others; no more than was necessary." Mr. London asked again: "You mean that they would resort to the corruption of Government officials?" Mr. Clark replied: "Well, yes; if they were held up." Frankly, because I wish to be sincere with this committee, I think Mr. Clark rather overstated the case for the people he represents. I do not believe that very many North Carolina manufacturers would attempt to bribe an inspector to give them a clean bill of health.

And this leads me to this proposition, that while the legislation which has been enacted, and may soon be enacted even in North Carolina and South Carolina, for the protection of the children, indicates the popular sentiment on this subject of the protection of children against exploitation, it will take years and years yet to enforce the law against these powerful influences as it should be enforced. It means the spending by the State of a good deal more money for the employment of inspectors than they would be willing to spend for a generation.

I think you gentlemen of the committee as you listened to the testimony of the cotton manufacturers and to the powerful exhortation of their attorney, especially as you listened to the cross-examination as to how this bill would affect the owners of the mills, must have wondered what the fuss was all about. Apparently they do not object to the 14-year age limit; they do not object to the provision against night work, though Georgia still allows children of 14½ years to work at night. They could not work out a very good case as to any great harm to come to them concerning the eight-hour day for children under 16. They were ignorant of the fact, as the testimony will show, that Massachusetts for the last four years—the greatest textile State in the Union, the greatest cotton-mill State in the Union—has had an 8-hour day for the employment of children under 16, is enforcing it, and that the threats of the manufacturers about the turning of the children out of the mills have not come to pass. So even the 8-hour-day proposition could not worry these manufacturers very much. What is the milk in the coconut? Who is the Senegambian concealed in the woodpile? Why do these gentlemen spend all this money on attorney fees, offer to spend more for a junket in a private car through a list of selected mills, which they duly gave to you? Why are they making such a fight against Federal legislation when in some States their standards are so slightly below the standards required here? I make bold to say, gentlemen, that the real reason for this position did not crop out until Mr. Emery began to close his speech. He declared that this law would be effective.

The real fact behind all this opposition is this: That these men who for so many years have been employing children in violation of the law, because there was no one to look after them and protect the children, who may think that they can control the appointment of factory inspectors, who, according to Mr. Clark's opinion, are willing to buy them off after they have been appointed, are afraid of Uncle Sam. They know that under this law a man who sees a child engaged at work in a mill which is shipping its products in interstate commerce can drop a postal card to a Federal attorney and start a prosecution if the facts justify it. And they know also that a Federal jury drawn from a large Federal district is free from local influences, in favor of convicting men such as no local jury in any cotton-mill county be free. You heard Mr. Fitzgerald's testimony as to his beautiful welfare work, and so on; you heard how violently he rejected the idea of a Federal child-labor law. Perhaps I can give the reason, which I also was fortunate enough to be able to include in the hearings on this bill two years ago. These facts were given to me by a factory inspector in Virginia; and I desire to say that since the new law went into effect in Virginia, which differs from this only in having a 10-hour day, not a 11-hour day in Virginia, but a 10-hour day for children, as compared with the 8-hour day requirement in this law—I want to say that I do not know of any State where the enforcement of the law has been so vigorous as in Virginia. While Virginia has employed only two inspectors, and of course they are inadequate to their great task, for Virginia has more capital invested in manufacturing establishments, though she has comparatively few cotton mills, than any other Southern State, there are more convictions for the violation of this law in Virginia than there are in either New York or Illinois, which have, of course, hundreds of inspectors. But in these very Danville cotton mills, according to the testimony I gave two years ago, the Virginia inspector found 85 cases of violation of the law in the plants of the American Tobacco Co. and in cotton mills in Danville:

> I can tell you of an interesting example of this down at Danville, Va. As I have said, they have a better law in Virginia than they have in North Carolina, and

Virginia has a State factory inspector who has been very diligent in the performance of his duties. He found 85 violations of the child-labor law in the plants in Danville of the American Tobacco Co. and in cotton mills in Danville. He took a minister with him who had worked in some of the mills in North Carolina, and he found a great many who had gone over there to the Danville mills from North Carolina.. He found evidence of the violation of the law in 85 cases, and got affidavits from school-teachers as to the ages of the children, and took these cases before the grand jury in Danville. But the foreman of the grand jury was a brother-in-law of the largest stockholder in the Danville Cotton Mills; the manager of the American Tobacco Co. was a member of the grand jury; the superintendent of the cotton mills was another member; two others were large stockholders in two other mills; and four of their bookkeepers were also members of the grand jury. So there were 9 out of the 12. They threw out all except three of the cases, and the inspector took these three cases before the mayor of the town, who is the judge in such cases down there. It was rather amusing to find that the evidence the parents of the children had filed with the factory in one case showed that the three children were 14 years of age, yet there had been no twins or triplets in that family. I have the record which shows that it was stated by the parents that these children were born, the first on March 3, the second on October 9, and the third on April 16, all within 13 months. The mayor heard these cases and pronounced the men guilty, but said he knew they would be good the next time, and dismissed the cases.

By the way, Mr. Fitzgerald is another gentleman who appeared before the Legislature of Virginia in opposition to any advance in child-labor legislation.

So it is because they fear that this law will be effective where State laws are ineffective that they oppose this bill.

We all know that pure-food laws of 48 or less States did not avail to protect the people of the United States against the importation of impure or misbranded food from other States. One of the most recent decisions of the Supreme Court upholds the law which prevents the shipment of medicine from one State to another about whose healing properties false claims are made. And the very publicity given by Federal convictions under the pure-food law is a powerful deterrent, since, even if these convictions are not published in the newspapers, rival establishments manufacturing food and drugs use the fact of these convictions as an argument with their customers against the purchase from the corporations that have been convicted. So with the liquor laws. I am making the point that Federal laws are more effective when they deal with the same subject with which State laws deal, and that there is no conflict of jurisdiction here, but cooperation between the States of the Union toward the same end. I have been interested in the prohibition movement in the Southern States; was a charter member of the Anti-Saloon League of North Carolina; have seen State after State, through its legislature, declare for prohibition until now only Florida, Kentucky, Louisiana, and Texas are left of the States below the Potomac that have not State prohibition laws. During the early stages of this movement State laws were ineffective. The discovery had not been made that the State itself should enforce the law instead of relying upon local initiative to enforce it. But in thousands of instances men procured a United States license to sell liquor in violation of the State laws. It was because they feared not to pay the tax upon liquor to the Federal Government that they acted in conformity with the Federal law for the very purpose of violating the State law. Then the Webb-Kenyon law came along, in part to correct this. During the early stages of the State prohibition laws there was a good deal of fun made of them and their violations. I remember a sign in Macon, Ga., over a somewhat famous saloon there, which read, "Hush, little barroom, don't you cry; you'll be a drug store bye and bye." But nobody makes fun to-day of the practice of dealing in blockade whisky. The moonshine still is a serious business. Men risk their liberty, and sometimes kill revenue officers who are about to arrest them. I have seen scores of moonshiners in the Atlanta Federal Penitentiary at the very time when it was impossible to get a jury to convict a blind tiger in Augusta or Savannah, Ga.

So the people who talk about their being opposed to child labor and at the same time are opposed to a Federal law, are really, if not consciously, opposed to any effective law on the subject. They remind me of the story of the astronomer and the ditch digger. The astronomer said, "Do you see that moon yonder," and the ditch digger replied, "Yes." "Do you see that little star at the side of it." "Yes." "Well, that start is one billion seven hundred million times bigger than that moon." The ditch digger looked at the moon and looked at the star and said, "Well, the star has a poor way of showing it." No, gentlemen, it is the enforcement of unenforced legislation that the opponents of this measure fear from the adoption of a Federal bill.

I said the other day that so far as I was personally concerned with the introduction of some of the evidence given before the committee last year, I was willing to rest our case on the testimony of the other side. To one who is familiar with cotton-mill conditions, with the employment of children, that testimony was a complete confession. It consisted of two parts. The first part mainly set forth how bad the child-labor reformers generally, and the national child-labor committee particularly, are. It all had a very familiar sound to me. Reams of paper have been wasted and floods of eloquence have been poured out in opposing all those who have been trying to stop this business. I would not refer to this attack upon the national child-labor committee, as most of it was struck out of the paper, except for the fact that it was followed by the introduction by Congressman Rogers, of Massachusetts, who appeared on his own behalf and independently of our arrangements, of a letter from Mr. David S. Clark, then the secretary of some cotton manufacturing association, to manufacturers in Massachusetts, and I suppose elsewhere, in which the statement was repeated that the national child-labor committee had deliberately falsified the facts. More about that presently. One statement remains in Mr. Clark's presentation of the case, which says that when I was running a paper in North Carolina I was myself an employer of women, the inference I suppose being that I did not become interested in the protection of women and children in industry until after I had gone out of business myself. The fact is that when our printing office got big enough to require a folding machine for folding the papers we employed one woman, a grown woman, to work nine hours a day, and before I gave up the business in Charlotte, for 8 hours a day. That is the extent of my offending in the employment of women. I have also employed women as stenographers, but the eight-hour law in Washington did not affect me as they were employed for only seven hours a day. So much for that.

Now, when it comes to misrepresenting, I have discovered that there is no possible way to secure any trustworthy information concerning the cotton mills. We have photographs of child-labor conditions throughout the Nation running up into the thousands, but somehow the camera always makes a mistake. We have employed ministers, teachers, Young Men's Christian Association workers, lawyers, to make investigations, and have presented sworn affidavits, sometimes accompanied with the sworn affidavits of disinterested persons. But it was all a misrepresentation. Furthermore, when the most friendly visitor of the cotton mills, who may talk to his heart's content about the betterment work being done there, intimates that there are too many young children employed, in that particular the investigator is mistaken. The Census Bureau, being managed by the Federal Government, is all to the bad when it talks about child labor, especially in southern cotton mills. Although the census of 1900 declared that "to a greater extent than any other mechanical or manufacturing industry in this country, the cotton mill is the employer of children," it had no figures upon which to base such a conclusion. The Federal Bureau of Labor, under congressional sanction, with an appropriation of $300,000, undertook to secure the facts concerning the employment of woman and child wage earners in the United States. In the investigation of the southern cotton mills mainly southern agents were employed. The investigation was under the immediate charge of Mr. Walter B. Palmer, of Tennessee, a friend of Justice McReynolds, of the Supreme Court. The Commissioner of Labor at the time was also a southern man, Dr. Charles P. Neill, of Texas, appointed chief of the bureau by President Roosevelt, and though a Roosevelt Republican, reappointed by President Taft, and though still a Republican reappointed by President Wilson against the protest of one of the Senators from North Carolina. The results of this investigation were published in 19 volumes and they covered a large number of industries where women and children were employed. And yet these results are altogether untrustworthy, because they depict most startling and inhuman conditions concerning the employment of little children in the southern cotton mills. The only figures to be relied upon, if we may believe these gentlemen, are those contributed to State bureaus of labor by the manufacturers themselves concerning the number of children employed under certain ages, these ages being in some instances those given by the parent without even an affidavit to that effect. As to the figures of the census of manufacturers, which are also furnished by the manufacturers concerning the number of children under certain ages employed, these figures the Census Bureau itself has declared to be untrustworthy for this very reason.

That was the first part of the testimony, contained mainly in the addresses of Mr. Clark and Mr. Fitzgerald. And, by the way, I have heard this same speech by Mr. Fitzgerald, with a few figures altered, before a committee of the Virginia Legislature, protesting against the child-labor law, and a few years before that I had read the same speech, again with slight alterations.

The second part of the evidence presented was for the purpose of creating an atmosphere in this room fairly reeking with benevolence. You were told, first, how child-labor reformers were unreliable; second, you were told how good they—the child-labor exploiters—are. You were told of schools erected and churches erected and teachers and preachers employed, of a hospital built under somewhat remarkable conditions, with a doctor employed on a salary paid by the mill corporation. You were told of the betterment work existing in a comparatively few mills, as if they were typical of all the 765 cotton mills of the Southern States. Now, the object of this—and I have listened to this same sort of a discussion for 11 years—was, first, to prove to a legislative committee that anyone who advocated child-labor reform was one not to be trusted; and, second, that anyone who employed children was so naturally good hearted that the children's lives and fortunes might be safely left in his tender care. I am somewhat curious to know whether the same impression will be made upon a committee of Congress as has been made upon committees of southern legislatures in so many instances.

A word about the unreliability of the statements of the National Child-Labor Committee. I am sure that I speak for our general secretary, our secretary for the Northern States, Mr. Clopper, and myself and for the estimable men and women of high character and national fame who compose our board of trustees, in saying that the national committee is one reform organization which believes that no cause can prosper unless the truth is told; that no reform can become as successful with the exaggeration of conditions which it is designed to cure as it can be by sober, calm, dispassionate, scientific inquiry into the facts, and the publication of the facts alone, and of such conclusions as are amply grounded upon fact. And I want to make this statement for myself. I suppose I have talked child labor in the South ten times more than anybody else in the last 10 years, and have written ten times as much, and that is a very conservative estimate. My speeches and pamphlets have been published broadcast. Many of them have been in the possession of these gentlemen who are opposing this bill; and yet the only statement questioned before this committee—and I am sorry that that was stricken from the testimony—is that I published a statement that 1,085 adult operators in a representative week in southern cotton mills received less than $2 a week, the statement being made that there was no such figure in volume 1 of the Bureau of Labor Report of the cotton-textile industry, composed of some thousand pages. On page 307 there is a statement of the "number of employees earning classified amounts in a representative week in cotton mills investigated, by sex and age." In the southern group there were 483 males and 602 females, "m." standing for males and "f." for females. The simplest process of arithmetical addition known to me will convince anyone that the sum of these two figures is 1,085. And yet my critic said that that could not be found in the book. During these years of speaking and writing on this subject I have never made a statement which was successfully challenged save one, when I, somewhat naturally I think, misinterpreted the figures sent to me by the Maryland commissioner of labor concerning the number of children taken out of employment through the Maryland child-labor law.

And I would like to say for the benefit of all other reform organizations, who sometimes envy the hold which we have upon the American public, who contribute so generously to our campaigns and who aid us so enormously by their influence—to say that the reason for the successful achievement which we may modestly claim for ourselves during these 11 years in working up public sentiment for our cause where there was little or none before, and in securing the results we have achieved in legislation in nearly all the 48 States of the Union, is that we have diligently and carefully abstained from any exaggeration, and have preferred understatement of the facts to overstatement.

I would like to make some comments upon the evidence that was brought to your attention. Mr. Clark said that 10 or 15 years had elapsed since children of 8 or 9 years were employed in the South. The figures which I produced last year, without going into new evidence—and I may say for the information of the committee that I had stacks or reports from North Carolina, gathered by a daughter of North Carolina during the past year, showing the violations of the present child-labor law—these figures which I produced last year absolutely disprove that statement.

As to the illiteracy of the mountain people as compared with those of the cotton mills, Mr. Emery spoke in very glowing terms of the cotton mills as opening the doors of education to the children. The census figures for 1900, which I quoted two years ago, prove this, for example: That the illiterates among the white children 10 to 14 years of age in North Carolina were 16 per cent in 1900, while in the families of cotton-mill operatives the percentage was 50, the illiterates in the cotton mill families actually increasing the illiteracy of the same class of people in this State to the high level of 16 per cent. The corresponding figures in South Carolina were 14 per cent for the white children of the State at large and 48½ per cent for the children of the cotton-mill families, while in Georgia the corresponding figures were 12 per cent and 44 per cent.

Now, in the census of 1910 I am glad to say that this illiteracy has been decreased for the States at large; I believe it has been decreased for the factory families, though there are no figures yet to show this. The reports of the Bureau of Labor made in 1908, however, bear out the same proportion as in 1900 from a comparatively limited number of cotton-mill families investigated. It stands to reason that the demand for the labor of the children in the mills precludes all opportunity for an education, especially with a low age limit and with no enforcement. The contention between the mill and the school for the possession of the child is like that between the Archangel Michael and Satan for the body of Moses, one tending toward its deeper burial, the other to its lifting into a higher life.

Next to the reform of child-labor conditions I am interested in the reform of educational conditions in the South. I have written more compulsory-education bills and urged the passage of more in the States of the South than anyone else, I believe; and I have contended through all these years, and my contention has been proven true by the process of events, that a compulsory-education law could not be passed in any Southern State until the child-labor law had begun to stop the opportunity for the employment of young children.

Mr. Clark made a great deal about the accidents in cotton mills, as if somebody had been writing and speaking a great deal about them. That was a man of straw to be erected for the purpose of overthrowing it. It is true that occasionally a child's fingers are cut off, or sometimes he loses a hand. But the cotton-mill employment has never been classed by us in the framing of legislation as a dangerous occupation which requires a 16-year age limit for workers. In

Texas, at the legislature there, the manufacturers agreed with me to make clear in the law that cotton-mill processes were not to be classed with the dangerous occupations. Mr. Clark's testimony also brought out very clearly this fact, that this proposed bill has been represented to the cotton-mill workers in North Carolina as having a 16-year age limit for the employment of children. I should like to ask Representative Byrnes of South Carolina to put into the record, as I can not do it, some of the articles he has been writing in South Carolina papers, claiming that this meant a 16-year age limit. These gentlemen seem ignorant of the fact that Massachusetts and Mississippi are both working an eight-hour day for children under 16 in their cotton mills successfully, to say nothing of New York, New Jersey, Ohio, Kentucky, Missouri, Oklahoma, Wisconsin, etc. Mr. Clark asserted flatly, "Theoretically it is 14, practically it is 16. You can not get around that. That is how it will work out. That was the experience in Kentucky, which has a similar law"—which, by the way, is a total misapprehension of the fact. And Mr. Clark seemed to know all about these petitions. He said, in answer to the question, "Who gave them the ballot?"—which, by the way, was not a ballot, but a petition on which to sign their names—he answered, "The mill owners." He says, moreover, "In many cases it was signed in the presence of the pay-roll man."

Now, of what value are petitions from cotton-mill workers, unorganized, many of them illiterate, who have a typewritten paper thrust before them by their employer and who are told at the same time that the law against which they are asked to petition means that no children under 16 years of age can be employed in cotton mills?

Mr. Clark had some very severe strictures to make concerning the ignorance of the mountain population of North Carolina. I should like to defend the mountain population against this charge. I was once superintendent of home missions for my church in North Carolina. I became intimately acquainted with the conditions of the mountain people then. Many of them needed churches, needed better school facilities, as all North Carolina then needed better school facilities. I discovered long ago that one of the very counties mentioned by Mr. Ruffin—Stokes County, for example—had a smaller illiterate population than the county in North Carolina with the most cotton mills, namely, Gaston County. And Mr. Clark actually proclaimed that the mountain people were so opposed to compulsory education that they would vote the Democratic Party out of power if it passed anything but an optional compulsory education bill. If that be so, how does it happen that Mitchell County, in the very heart of the mountains, was the first and only county in North Carolina to put into effect a compulsory education law with an age limit up to 15 years of age? In answer to the question by Mr. Cooper, "Your people in North Carolina blame the condition on the Republicans?" Mr. Clark said, "Oh, no; they blame it on the class of people who live in the mountains." Our agent in North Carolina, Mr. Swift, has spoken and written a good deal on this subject, and he had a statement to make before this committee two years ago. Mr. Swift has conclusively shown, having been superintendent of schools in Greensboro himself, that though he lives next door to probably the best cotton mills in the South—

which, by the way, this committee was especially invited to visit the other day; mills which certainly boast more of the educational advantages they give the children than any mills in the State—he has shown that the rural districts of Guilford County had a much higher percentage of school enrollment and of school attendance than the mill schools have, of course the city of Greensboro being higher than other mill centers. So when Mr. Clark asserts that the mills have the best facilities for the education of the children in the South I might ask him how many high schools there are in the mill villages in North Carolina.

The fact is that when the twelfth year is reached in North Carolina the children almost universally leave the schools for the mills, just exactly as they did in Warrick County, R. I., according to the census figures of 1900, when Rhode Island had an age limit of 12 years for the employment of children. Mr. Clark referred to my statement before the Commission on Industrial Relations, in which I quoted from a former pamphlet of mine, entitled "Child Wages in the Cotton Mills—Our Modern Feudalism." But the part to which Mr. Clark referred is this, under the heading "Children's Wages High—Adult's Wages Low," was where I quoted from the report of the Bureau of Labor, which dealt with the wages as carried on the actual pay rolls of 31,404 operatives during a representative week. The report says:

> In order to secure accurate data in regard to the earnings of employees in cotton mills transcripts were made of the pay rolls of each of the establishments investigated, showing for each of the employees above described the name, occupation, sex, and the hours of work and the earnings in a representative pay period. The pay-roll period selected was, as a rule, the one just prior to investigation by the agent of the bureau.

Then I went on to say:

> But here is the impressive thing about the comparative wage of children and adults per week: Two hundred and fifty-one children under 12 years of age earned lass than $2 per week and 731 children of 12 and 13 earned less than $2 per week. But there were 1,700 workers from 14 to 20 years of age who earned less than $2 per week. And 1,085 operatives 21 years of age and over who earned less than $2 a week. There were more girls from 18 to 20 years of age earning less than $2 per week than there were of girls from 14 to 15 earning less than $2. There were 1,733 children under 16 who made from $2 to $3 a week and there were almost an equal number—1,712 workers—16 years and over who earned the same wages. Children under 16 earning from $3 to $4 a week numbered 2,426, and those from 16 to 21 and over earning from $3 to $4 a week numbered 2,597.
>
> Out of 32,409 workers in the cotton mills whose actual wages per week were copied from the pay rolls only 1,444 earned from $8 to $9 a week, and one of these was a boy and one a girl under 12 years of age. And when we come to the $12 limit only 54 women out of 17,066 earned from $11 to $12 a week, and one of these was a girl under 16 years of age, while 241 men out of 14,000 reached that wage, and one of these was a boy under 16.
>
> I know of no employment in the South for girls under 14 that pays so well as work in the cotton mill, and only one employment for boys—the demoralizing messenger service, which is vile for the night shift and bad for the day shift from association with the boys who work at night. And their wages are increased by the tips they get for serving the denizens of the underworld. But the facts driven home by these unquestioned figures is that the wages of children are high as compared with the wages of the adult workers. The same general result is shown, though with higher ages for children and a slightly higher scale of wages, for the New England mills.
>
> Here is the temptation which the cotton mill in its long child-enslaving history in Old England, in New England, in Pennsylvania, and the South has

set in the way of ignorant, indifferent, or poverty-stricken parents. And who are mainly responsible for this—the employers, enlightened and educated men, able to read and to appreciate the full consequences of the child-labor system to the children, to the country, and to democracy itself, or the parent who supplies the demand which the cotton manufacturer creates? Whom does the enlightened conscience of mankind hold responsible for the introduction of African slavery into America and the British possessions to-day? The African chief who sold his people, already slaves to his lordly will, or the British or New England slave trader who bought them and transported them?

And now perhaps we begin to see the relation between the comparatively high wages that the children receive and our modern system of feudalism. Why is it that a thousand workers 21 years and over out of 3,700 earn less than $2 a week in the cotton mills? It is because a thousand children under 14 can earn just as much. When the child can do the man's job or the woman's job, the man or woman must lose the job or take the wages that are paid the child. There is no escape from that conclusion. If there is anything the matter with the logic of the argument, I should like to have it pointed out.

When 17,517, more than half the employees whose wages were reported, earn less than $5 a week, I know they earn that small sum because out of the 17,517 there are 7,825 children under 16 who earn the same wages. In any child-employing industry the wages of the adult are measured by the wages of the child.

In opposition to this study by scientific, conscientious agents of the Federal Government, Mr. Clark puts into the record the average weekly wages paid in one mill in Atlanta, Ga., showing, for example, that in 1894 spinners were paid $1.80 a week; in 1904, $2.40; and in 1914, $6.80. In 1894 doffers were paid $1.80 a week; in 1914, $3 a week; and in 1914, $9.60 a week. He also put into this record, as a scientific demonstration of the fact that high wages are paid in the cotton mills, the wages of three or four families in one cotton mill in North Carolina which he investigated, whereas the agents of the Federal bureau, in 1908, investigated the wages of over 30.000 people in 151 mills in the Southern States.

Now, to go back to the mill wages for these two decades. By the way, I happen to know that 10 years ago this mill was paying 48½ per cent dividend to its stockholders, and that was not an unusual dividend, according to the testimony of one of the stockholders to me. You noticed that the wages of spinners between 1894 and 1904 increased from $1.80 to $2.40 a week, and the wages of the doffers from $1.80 to $3 a week; while the wages in the second decade between 1904 and 1914 increased for spindles from $2.40 to $6.80 a week, and for doffers from $3 a week to $9 a week, an increase of 100 per cent in one case and more than 100 per cent in the other case. A member of the committee suggested to Mr. Clark that perhaps if the national child labor committee was responsible for the whole agitation in this country since 1904, when it was organized, it might be responsible to some extent for the increased wages. Of course we have never made any such claim for ourselves. I make bold to state now that in so far as we have been influential in arousing public sentiment and securing legislation to prevent the wholesale exploitation of children which we found to exist 10 years ago, so that in a decade, according to the census figures, the number of children in nonagricultural work under 14 was reduced from 183,358 in 1900 to 95,839 in 1910—I make bold to state that the elimination of children under 14 from industry has produced, in part at least, the raising of the wages for the children employed. Certainly the mill in Atlanta, Ga., which in 1905, without any child-labor law, was fairly flooded with children when I first went there to investigate conditions, may thank us, in part, for the elimination of the children by the present Georgia law, which now prohibits children under 13 to work and within another year will prohibit children under 14. And I wondered why the three Congressmen from South Carolina who asked, according to their testimony, the mill operatives what they thought about this law—which as we know now was misrepresented to them in the public press and in public speeches—did not take occasion to tell their people, even the fathers, who put their children to work and who are the voters of the cotton-mill districts, that this law would be for their benefit in simply raising the wages of employees to a normal scale, so that the whole family would not have to work to support life, but that the family with the younger children at school would get the same wages finally that they get to-day.

I must pass over the other gentlemen who spoke concerning their benevolence. I was glad to note the promise given by Mr. Long and other South Carolina gentlemen that the 14-year-age limit would be put into effect at this legislature. I wondered whether the agitation for the Federal law was not already helping the manufacturers to come to an agreement to allow this long-deferred measure to pass their State legislature. I call attention to the superintendent who represented the labor people in an organization in which only 7 out of the 320 employees of his mill were eligible for membership.

In regard to that statement made concerning the optional compulsory-education law in North Carolina, I wondered how many mill counties had put that law into operation since the legislature allowed them to do it. I call attention to Mr. Joseph Bradley's statement concerning the Merrimack Mills, in Huntsville, Ala., who thought it was really possible to put the eight-hour law into effect, but who was apparently ignorant of the fact that the same corporation, in Massachusetts, employing these foreign children who were so contemptuously described by another speaker, had put the eight-hour law into effect there, and that this New England corporation, living under a humane law in Massachusetts, allowed its representative to appear before a congressional committee to prevent the same law from going into effect in Alabama by Federal action. It seems to me that Mr. Bradley's statement that you can hardly find a family that comes from the country that does not live in a one-room house is rather extreme, and I am fairly familiar with the rural conditions in the South. I call attention to Mr. Patterson's statement that he was opposed to child labor, thought there was no money in it, and again I wondered at the benevolence of these mill men in employing an attorney—for a large fee, I hope—and paying his expenses purely in behalf of their operatives, at a financial sacrifice so far as the employment of children was concerned.

With regard to the junket which has been offered to the committee, I was somewhat amused at the suggestion that the committee should go to Roanoke Rapids and Henderson and Durham and Greensboro and Charlotte and Greenville and then return. Some of the mills which Commissioner Watson, of South Carolina, dubbed "show mills" are to be found in these very cities. I call your attention to how these witnesses seemed to contradict each other. From some you heard statements about the friendly relations between employer and the employed and that the organization of mill employees was not necessary or desirable. Then, when it came to the question as to whether the employees had signed these so-called petitions because they thought the millmen wanted them to sign, it was claimed that that would have been a sufficient reason for their not signing them. on account of the antagonism between operatives and the mill owners.

Mr. David Long, of Rock Hill, S. C., was one of the South Carolina gentlemen who appeared before this committee two years ago. It was Mr. Gossett, however, who said frankly that the parents were inclined to misstate the ages of the children. So, of course, nobody knows just how many children under 12 or under 14 or under 16 are employed in these mills. Mr. Gossett was also ignorant concerning the child-labor law of his own State, believing that there was a 14-year age limit in South Carolina, with exemptions.

Concerning the testimony of Dr. Long, of Roanoke Rapids, I was interested to note that the Federal Government can be called upon by the cotton mills to help, through its Public Health Service, in preventing the epidemics of malaria. The question of State rights never seems to lie in the way of an appropriation. I have no doubt that Dr. Long is doing an excellent work at Roanoke Rapids, though I could not help thinking that it was highly convenient to the employers to have one of their young employers also one of the town commissioners and concerned with such disagreeable questions as the fixing of the tax rate.

And then, again, I wondered why Dr. McBrayer, who testified concerning the deporable tuberculosis conditions in a silk mill in North Carolina, was brought all the way here to testify by the southern cotton mills, when he said very clearly that he knew nothing of any investigation into tuberculosis in the cotton mills. The reason for it dawned upon me, however, when it was ascertained that this silk mill at Wadesboro was owned by a New Jersey citizen. Yet, again, it seemed to me rather a reflection upon North Carolina that she should have allowed a condition there which would not have been tolerated in the State from which this citizen had come, with 45 per cent of the mill workers infected and 45 per cent of the infected showing physical signs of tuberculosis, with a boy who had "a little trouble in his lungs" allowed to go back to work in the mill because he had not reached the stage in which he would certainly infect others. It seems to me that perhaps the passage of this bill would relieve the situation, at least to the extent of eliminating the younger children from the mill. I was glad to hear Dr. McBrayer's testimony as a medical man to the effecct that work for 11 hours a day would be pretty hard for a grown man, and that he did not mean anything he said to be an argument against shorter hours of labor. Perhaps the New Jersey citizen was also a Republican, and perhaps that was the reason why Mr. Parker, of New Jersey, was the only Republican who voted against this bill last year, having in mind the protection of a possible former constituent. I believe Mr. Parker was also a member of the Judiciary Committee of the House, which long ago decided, without any bill before it, with only an appropriation before it for an investigation into child-labor conditions—decided in advance of the Supreme Court, as a sort of junior supreme court—that a Federal child-labor law must be unconstitutional.

I was also glad to hear Dr. McBrayer's testimony to the effect that stonecutters and mine workers are liable to pneumonia because of their occupation. At least, the tender lungs of children should be protected against the dust and smoke of mines and quarries.

J. B. Harris, of South Carolina, was also clearly under the misapprehension that this bill contained a 16-year age limit for the employment of children, though he thought it not impossible to meet the problem of an 8-hour day.

I call attention to one thing in Mr. Ruffin's testimony, namely, that "young people advance to more congenial work, not to higher wages"; that is, that the maximum efficiency of the cotton-mill worker is reached at a comparatively early age.

With this attempted review of the testimony, may I ask the committee what it all amounted to as an argument that it was unjust to pass a Federal child-labor law. If the children in the mills whom this law would affect are so few as represented by some of those who made their statements here, why all this fuss about it? Why, out of the thousands of industries in this country, do the cotton mills alone protest against this measure? On the ground of its injustice to themselves? If the children are few, it can hardly affect them. If the children are numerous, it is a matter concerning which this Nation is properly concerned; for just as the citizen of the State is a citizen of the Nation, so the future citizen of the State is the future citizen of the Nation.

I append a table which shows how many children of the different States would have been affected by this bill if there had been no decrease in the number employed since 1900:

Latest official figures on child labor.

[Compiled from United States Census of Occupations, 1910.]

	Manufacturing and mechanical (specified occupations).		Extraction of minerals (specified occupations).	
	10 to 13 years.	14 to 15 years.	10 to 13 years.	14 to 15 years.
Total	27,005	176,137	2,266	15,401
Alabama	2,003	3,141	486	933
Arizona	5	45	3	28
Arkansas	324	654	11	73
California	81	1,581	4	43
Colorado	29	380	33	178
Connecticut	43	4,246	....	7
Delaware	34	373	....	1
District of Columbia	3	102	....	....
Florida	668	1,520	53	69
Georgia	2,784	4,338	35	78
Idaho	10	74	....	....
Illinois	398	9,992	26	215
Indiana	289	4,743	28	557
Iowa	128	1,473	29	311
Kansas	66	572	17	167
Kentucky	488	2,483	168	522
Louisiana	449	1,736	2	1
Maine	154	1,996	2	9
Maryland	849	4,028	45	242
Massachusetts	279	18,275	....	25
Michigan	103	3,258	....	75
Minnesota	85	843	3	19
Mississippi	556	1,069	....	....

	Manufacturing and mechanical (specified occupations).		Extraction of minerals (specified occupations).	
	10 to 13 years.	14 to 15 years.	10 to 13 years.	14 to 15 years.
Missouri	389	5,255	14	249
Montana	8	78	....	9
Nebraska	31	313	1	9
Nevada	....	2	3	4
New Hampshire	63	2,067	....	9
New Jersey	259	10,020	3	26
New Mexico	29	90	10	42
New York	518	18,502	3	47
North Carolina	6,344	8,475	15	27
North Dakota	11	53	....	....
Ohio	370	8,763	47	793
Oklahoma	70	359	9	47
Oregon	29	256	....	1
Pennsylvania	1,272	30,688	529	7,695
Rhode Island	81	4,712	....	4
South Carolina	4,154	5,506	....	....
South Dakota	1	72	....	6
Tennessee	1,029	2,289	188	663
Texas	734	2,204	20	87
Utah	....	94	3	18
Vermont	18	259	2	36
Virginia	1,337	3,568	152	469
Washington	51	586	1	31
West Virginia	298	1,317	318	1,521
Wisconsin	81	3,670	2	16
Wyoming	....	17	1	39

[Extract from hearing held in 1914 on the Palmer-Owen bill.]

COMMITTEE ON LABOR,
HOUSE OF REPRESENTATIVES,
Washington, February 27, 1914.

STATEMENT OF HON. A. MITCHELL PALMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA.

Mr. PALMER. Mr. Chairman and gentlemen of the committee, I want to call the attention of the committee to a bill introduced by myself, H. R. 13892, a bill to prevent interstate commerce in the products of child labor, and for other purposes.

In the short time I shall have it will be impossible for me to discuss this matter at great length.

The CHAIRMAN. I was going to suggest that inasmuch as the subject of this bill involves in a most vital way the manufacturing and labor and commercial interests of the country, that we would hear from you this morning a comprehensive statement of the object of its principal factors in order that the country might know what they have to consider, and we would not consider that we have gotten all the help from you we need from a brief statement from you this morning.

Mr. PALMER. It was my idea that all I should do to-day was to make a statement as to what this bill is, what it proposes to do, and, in a most general way, state the reasons for it, in the hope that the committee would give us a little further time to present some further facts and arguments on the part of the friends of this measure and to give a free, full, and ample opportunity to those who may be opposed to it, if any, to be heard before the committee. So, before I conclude, I shall ask the committee to fix some date when we can have a full hearing from both sides on the bill.

The proposition contained in this bill is a Federal child-labor law. It differs radically from former attempts at Federal child-labor legislation, and, in my judgment and in the judgment of many men of very much wider experience and very much deeper learning in the law than myself, this bill as framed will meet all the objections which have heretofore been raised against this sort of legislation. In a word, the proposition is to provide that it shall be unlawful for any person to ship or deliver for shipment in interstate commerce the products of any mill, mine, quarry, or manufacturing establishment where the labor of children below a certain standard is employed.

The standard fixed by the act is: In mines and quarries, 16 years; in mills, factories, workshops, or other manufacturing establishments, 14 years, with a further provision against the night work of children and a further provision for an 8-hour day for children between 14 and 16 years of age. In other words, this bill, if it becomes a law, will keep out of interstate commerce the products of any mine or quarry where children under 16 years of age employed; the products of any mill, cannery, workshop, or manufacturing establishment in which children under 14 years of age are employed, or where children between 14 and 16 years of age are compelled to work more than 8 hours a day, or in the nighttime between 7 o'clock at night and 7 o'clock in the morning.

Now, this measure differs from the Beveridge bill, or, properly, the Beveridge amendment, which was pressed in 1907, and upon which Senator Beveridge made his great argument in support of child-labor legislation. It differs from the Kenyon bill, which is the Beveridge proposition, in that those bills put the burden upon the carrier and make it unlawful for any common carrier to receive or ship goods manufactured under conditions of the sort fixed by the law.

The Copley bill, introduced in the last Congress and in this Congress, and which, I think, is before the Interstate Commerce Committee—although it may be before this committee; I am not sure—is quite a different measure, and it again puts the burden largely upon the carrier. It provides against what it calls "antisocial labor," and puts it up to the Secretary of Labor to determine whether the factory laws in various States are sufficient, and whether conditions in the various States are right, and gives him such enormous power and puts upon him such a tremendous burden that it seems to me it would be impracticable and impossible.

The simple method, as it strikes us, is to make it a misdemeanor for the producer, for the man who is responsible for the labor itself being employed, to put into interstate commerce the article which is produced under these conditions.

Now, I take it, Mr. Chairman, that what this committee will want to satisfy itself about before it reports favorably upon a bill of this character would be three things: First, whether child labor exists in this country in a nation-wide way; whether it is in the mills, factories, mines, quarries, and workshops of the land from one end of the country to the other; and, second, whether it is such an evil of a nation-wide character affecting the interests of the Nation and the future of our people as demands uniform, universal legislation to correct it, preferably Federal legislation; and, third, whether, assuming that these things be true—that child labor exists in the country and that it is a great evil that ought to be corrected, and as a national evil ought, if possible, be corrected by Federal legislation—whether it may be reached under the power of Congress under the Constitution to regulate commerce between the States.

Now, 10 years ago, the first question—perhaps the second question—might have been debatable. Five years ago, perhaps, there would have been found men on both sides of the proposition, but to-day it seems to me there can be no argument upon it. The country has awakened to the fact that millions of our little children, despite some advance in the States upon this question in the way of regulatory legislation, are being employed in the mines and quarries and mills and factories of the land, and that the result has been and is bound to be in the future so appalling upon the health and morals of the children and of the men and women as they develop that it will constitute a great crying evil which calls for correction and remedy.

Now, in every State the question has been agitated; in every State attempts have been made at corrective legislation—vigorous, earnest attempts. They have met with opposition as vigorous and as earnest, and the principal opposition to this kind of legislation in the States presents the strongest argument which can possibly come before the Congress for legislation here upon this question. The campaign in every State in reference to this child-labor legislation makes it plain that it is interstate commerce which is at the very root of this great evil.

It is absolutely a national question, because to-day, with our greater facilities for transportation for commerce between the States, production and manufacturing have become not a State proposition but an interstate proposition. No producer anywhere to-day of any size, especially of the kind where children are employed, is engaged in the production of articles the consumption of which is confined entirely within the lines of the State within which the production takes place.

The commodities of our manufacturing establishments go everywhere, and, consequently, when we go to a State and ask that State to make a law which will crush out this evil of the employment of little children on the mills and factories, we are immediately met by the answer on the part of the manufacturer and producing interests, "It is not fair to us and to our own people in this State to do this thing, because it puts us in competition, after you have done it, with the States which are not progressive and are not interested in humane legislation of this kind and which refuse to pass this kind of legislation. Those States are, therefore, able to produce our article at lower cost." And it is a good argument, and it has constituted a block in a great many States against this kind of legislation. The legislator says:

"If our State is going to be compelled to suffer by reason of putting good laws upon our statute books, if our business interests and industrial development and all that sort of thing are going to be at the mercy of other States, we will not put this kind of law upon our statute books."

A situation is presented which, it seems to me, aside from the constitutional and legal question, calls for some kind of uniform, universal, Nation-wide regulation of this evil.

Now, before we get through, Mr. Chairman, we shall ask opportunity to present to the committee evidence to show what I have here stated, that child labor exists to an enormous degree in the country and that it is a great evil.

Mr. **Maher**. Some of the States of the Union have laws preventing the employment of children?

Mr. **Palmer**. Yes.

Mr. **Maher**. Not all the States?

Mr. **Palmer**. There are different standards.

Mr. **Maher**. If this act were to become law, could not the employer or merchant take refuge in the Sherman antitrust law, that this act was depriving him of his rights to interstate commerce?

Mr. PALMER. That raises the entire constitutional question.

Mr. MAHER. I heard it argued before the United States Supreme Court, and they quoted the Anti-Child Labor League—there is a branch of it in San Francisco—which informed a merchant in San Francisco who was handling the goods of an employer in Connecticut that they would not purchase the goods made by children and that he was selling at retail. It was held that that was a violation of the Sherman antitrust law—interfering with interstate commerce.

Mr. PALMER. Restraint of trade by individuals might get into that kind of a position, but it would be a novel proposition, to my mind a charge that an act of Congress was in violation of the Sherman antitrust law.

Mr. MAHER. They claimed they were protected by the Sherman antitrust law.

Mr. PALMER. If this becomes a law, and it shall be determined by the courts that this proposition is within the power of Congress, of course the question which you raise, Mr. Maher, could not come in.

Mr. SMITH. Will you let me interrupt you a moment. Do you know what laws they have in foreign countries prohibiting child labor—whether they have any or not—and do you think there ought to be laws passed prohibiting the importation of goods made by child labor in other countries?

Mr. PALMER. Yes; I would say so; and I would personally have no objection to the inclusion in this bill of a provision against the shipment in our foreign commerce of these products in exactly the same way as interstate commerce.

Mr. HAWLEY. But that would only apply to the carriers and not to the manufacturers.

Mr. PALMER. That is all it does anyway. It is only the transportation of the goods we are reaching, because we forbid their shipment in interstate commerce. We could in the same way forbid and actually prohibit the importation of such goods as are made in foreign countries under conditions which were the same as are provided in this bill, because under the Constitution we have the same power exactly to regulate foreign commerce as interstate commerce.

The CHAIRMAN. Would it be very difficult to determine the facts in foreign countries in such a way as to be able to apply them punitively to the carriers?

Mr. PALMER. Yes.

Mr. SMITH. Where they have no such law in a foreign country you could prohibit them, and designate the country by the fact that they have no law against child labor.

Mr. PALMER. It was left out of this bill because we felt one step at a time would do. This is a long step and great step, and we do not want to confuse the two propositions of importation and transportation between the States.

Mr. NOLAN. During the discussion by the committee of the Booher bill, in which the same principle is involved so far as Federal law is concerned, a discussion took place on a measure I had before the Interstate and Foreign Commerce Committee prohibiting the shipment of convict-made goods in interstate commerce, which is a little different from your bill, but the question came up as to the constitutionality of the measure, and that seemed to stick in the minds of some of the members of this committee. I would suggest, Mr. Palmer, that inasmuch as you and those who have collaborated with you in the preparation of this bill must have given this question of constitutionality some thought, that if you have a brief it might be well to present it to the committee.

Mr. PALMER. I wish to say that I would not like to undertake to discuss the constitutionality of the question in five minutes, and I have had in mind exactly what you say. Before we get through with this question I would like not only to file a brief which can be printed in the hearings but an opportunity to present an oral argument. I have dealt with committees long enough to know that an oral argument is preferable to a brief, but I would like to present both.

The CHAIRMAN. Could you indicate a Supreme Court case that has been adjudicated that would come close to throwing some light upon this subject so that the members of the committee and the country may be directed to the sources of constitutional authority relied upon?

Mr. PALMER. We take the position that under the decisions of the Supreme Court, Congress having power to regulate commerce between the States, has the same power to regulate interstate commerce or commerce within its own borders, and that the Congress may go so far under its power of regulation as to prohibit from interstate commerce commodities which are produced under conditions which, within the State, would call for the exercise of the police power of the State. The cases have gone very far.

In the lottery case, for instance, which sustained an act of Congress which prohibited from interstate commerce lottery tickets, in themselves entirely inoffensive and innocent, the Supreme Court held that Congress, upon the ground that these tickets represented and stood for a business which affected the morals of the community and was against the interest of the Nation, might look to the use of the article which was asked to be transported in interstate commerce, and if that use was against the morals of the Nation it might absolutely prohibit its transportation in interstate commerce. The food and drugs act is an illustration of the same principle. and the insecticide act and in many others it was held the power to regulate commerce goes so far as to prohibit commerce in a certain commodity where the use of that commodity or the transportation of that commodity shows such a condition that makes it improper and unsafe, in the judgment of the lawmaking power, that it should be transported. For instance, there is a law upon the statute books making it unlawful to transfer loose hay upon ships in interstate commerce and also explosives in order to protect the safety of the carrier and of passangers and property carried by the carrier. It is an absolute prohibition, however, of commerce between States.

Mr. NOLAN. Let me ask you right there: Is there a law prohibiting the interstate shipment of the Johnson-Jeffries fight pictures?

Mr. PALMER. I do not think there was such a law passed.

Mr. NOLAN. There is a prohibition, I know—not particularly those pictures, but moving pictures of fights.

Mr. PALMER. I do not know about that. Now, you will see, Mr. Chairman, taking the lottery cases and the loose-hay proposition and the explosives and the pure-food acts and the insecticide act, they have been sustained upon the principle that the Congress, in its power to regulate interstate commerce, may absolutely prohibit where the use of the commodity is, in the judgment of the lawmaking power, against the interests of the Nation.

Now, this proposition is that Congress may, under that power to regulate, also prohibit from interstate commerce a commodity which has been produced under conditions the general character of which are against the interests of the Nation and calculated to weaken the moral strength of the Nation. In other words, we say that if Congress may look forward to the use to which a commodity which goes into interstate commerce may be put and say that because that use is bad therefore we may regulate its commerce by absolute prohibition, Congress may also look backward to the origin of the commodity and say that because it originated under conditions which were undesirable and offensive that therefore it shall be prohibited from interstate commerce, the article itself in each case being equally innocent in character.

The product of a child-labor factory is of itself no more deleterious than a lottery ticket, a mere piece of pasteboard. It is not the article itself which is bad or wrong, but the use or the manufacture of the article is such as makes it proper for the lawmaking power in the right of its exercise of that power to prohibit it from transportation.

Now, I want to call your attention to a few cases. In Hoke *v.* United States, which was decided in 1913, and which is a white-slave case, Justice McKenna says:

"There is a domain which the States can not reach and over which Congress alone has power; and if such power be exerted to control what the States can not, it is an argument for, not against, its legality. Its exertion does not encroach upon the jurisdiction of the States. We have examples; others may be adduced. The pure food and drugs act is a conspicuous instance. In all of the instances a clash of national legislation with the power of the States was urged and in all rejected."

I want to call your attention to a couple of other cases. In McDermott *v.* Wisconsin (228 U. S., 115), Justice Day said:

"Congress may itself determine the means for barring articles from interstate commerce; and so long as they do no violence to the other provisions of the Constitution Congress is itself the judge of the means to be employed in exercising the powers conferred on it in this respect."

This last case was in relation to the transportation of illicit and harmful articles.

Now. in the lottery case the court said this:

"We should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, can not be met and crushed by the only power competent to that end."

Mr. SMITH. That seems to be a leading case.

Mr. PALMER. That is the lottery case.

The **CHAIRMAN**. I think, Mr. Palmer, you have laid the general foundation of your case very clearly.

Mr. **PALMER**. That is all I care to do now. I wish to file with you a brief and argument, so that it can be printed in the record, and I want an opportunity for myself and some other friends of this measure to present a legal argument, because I believe that is the thing that will give most concern to this committee.

Mr. **NOLAN**. Not only to the committee, but to Congress.

Mr. **PALMER**. Yes.

Mr. **HAWLEY**. The extent of the employment of children and their ages will be very important also.

Mr. **PALMER**. Yes; the facts. The national child-labor committee, which is represented here by Dr. McKelway, is anxious to lay the foundation for this kind of legislation by the presentation of some data which they have collected. When can he take that up? If you will permit the suggestion, I think if you gave public notice that is all that is necessary. If you have the newspapers print the statement that the national child-labor committee and the child-labor associations of the various States will be heard on such and such a day and all other persons interested, you will find that all who are really interested will turn up.

(Thereupon the committee adjourned.)

COMMITTEE ON LABOR, HOUSE OF REPRESENTATIVES,
Monday, March 9, 1914.

The committee was called to order at 11 a. m., Hon. David J. Lewis (chairman) presiding.

STATEMENT OF HON. A. MITCHELL PALMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA.

Mr. **PALMER**. Mr. Chairman and gentlemen of the committee, this is the day fixed for the hearing on bill H. R. 12292, to prevent interstate commerce in the products of child labor, and for other purposes.

At the former hearing I made a statement, which has been printed in the hearings of the committee, covering in a general way the purposes of the bill, and very briefly discussed the constitutional phase of the question, which was the matter, I think, that interested the committee most. I stated at that time I would only make a general statement, and later would present to the committee certain witnesses who would be able to present to it facts which would sustain the proposition that child labor does exist in this country as a national evil, Nation wide in its extent—facts which, in our judgment, would support the proposition that this committee ought to take cognizance of that evil and make an effort to remedy it by Federal legislation. I stated also that we would be able to present an argument upon the constitutional phase of the question. I wish to say that these witnesses are here and certain volunteers, who are interested in this matter, and they are very much more able to discuss the legal phases of it than I am, and I shall ask your committee to hear them.

First, I would like to present Mr. Owen R. Lovejoy.

STATEMENT OF MR. OWEN R. LOVEJOY, SECRETARY OF THE NATIONAL CHILD LABOR COMMITTEE.

Mr. **LOVEJOY**. Mr. Chairman and gentlemen of the committee, I am here representing the national child labor committee, a volunteer organization which has been in existence nearly 10 years, and has for its purpose the studying of child-labor conditions in various parts of the country, the drafting of bills, conferring with different State committees and organizations, campaigning to get these bills through in the different States, cooperation with the departments of factory inspection, labor commission, educational authorities, and others in the effort to get the laws enforced when they are enacted.

The national child labor committee is interested in this bill because, after 10 years' experience in helping to get better laws in the various Commonwealths, we have found that it is difficult, if not impossible, to get uniformity of action in the different States. In many instances we find that the interests opposed to the legislation sought are opposed, not because they would be opposed on their own ground, but because they feel if they passed laws that would be more stringent within their Commonwealth they would be handicapped in competition with the same interests in other States. To some extent we believe that opposition on this ground is not warranted. We take the position that child labor is the most extravagant form of labor to be employed ordinarily, and that the industries that are managed with reduced child labor, or that eliminate it, are working on more economical lines than the industries that employ child labor extensively and for long hours. But opposition to enacting laws in the States is just as vigorous from that point of view as though it were not sometimes founded on a fallacy.

Now, Mr. Chairman, the points I want to suggest to the committee are the following: First, assuming that Congress is able to pass such legislation as this, assuming it to be constitutional, I want to present to the committee the suggestion that the bill we are arguing for is not an unreasonable, drastic piece of legislation. That is the objection that has already been raised against the measure by those who do not wish this kind of legislation enacted. It has been said that we are asking the Federal Government to establish a standard that is entirely unique and does not exist to any extent, and therefore that it is unreasonable to ask Congress to take action which would not be upheld, or has not been upheld by the standards of any fair number of the people of a Commonwealth.

I wish to meet that argument with data that I have to present to the committee, but which I shall present now only in summary and which I will leave with the committee.

The first standard is the prohibition of child labor under 14 years of age in the ordinary manufacturing occupations. There are at present 40 States that have enacted legislation of this kind, either relating to a large number of industries or to certain specific industries. In addition, the law exists in the District of Columbia and Porto Rico. The bill next seeks to forbid the employment of children under 16 years of age in mines and quarries. There are 15 States that already prohibit such work by children of this age. I will not read the laws of these States, but they are contained in this brief. In addition to these 15 States there are 6 States that have such small mining and quarrying interests that there are less than a thousand people altogether engaged in the industry in any one of these 6 States. Therefore there are 21 States that either have the standard or have such slight industrial interests in the matter as to prevent any so-called practical objection to this legislation.

The third is the prohibition of child labor under 16 years of age for more than eight hours a day. The attitude of the American Commonwealths and of the Federal Government on the subject of the eight-hour day is interesting in its present form and in its history. There are now 18 States that prohibit the employment of children under 16 years of age for more than eight hours a day. This of itself presents a strong argument for making it a national standard, that 18 States have taken this position. But it is not as strong as the correlated facts that out of the 26 States that prohibit the employment of adults on State contracts for more than eight hours a day 13 of these States do not appear in the list of the 18 States to which I referred. That is to say, whereas 26 States forbid the employment of adults for more than eight hours a day on State contracts, only 13 of those are in the list of 18 States that forbid such employment of children under 16 years of age. In addition, there are 13 States that forbid the employment of convicts in our penitentiaries or other penal institutions for more than eight hours a day. Two of them limit the hours of work to six a day. Besides this, the Federal Government, after having for some years forbidden the employment of labor for more than eight hours a day on Government contracts, at the last Congress went even further and provided that no private contractor doing Government work should be permitted to employ labor for more than eight hours a day on private contracts or Government work.

We take the position that if eight hours a day are considered by 26 States long enough for every able-bodied adult man to work on State contracts, if eight hours a day are long enough for people nearly all adults, probably all adults, to work on Federal contract work, either for the Government itself or for private contractors, if eight hours a day constitute a long enough day for convicts in our penitentiaries (and I suppose their limitation has not been established because of a desire to do kindness to those being punished, but on the same principle that if a man was sentenced to be electrocuted to-morrow morning at 9 o'clock, and at 8 o'clock the night before he attempted to commit suicide, we would send for all the doctors for miles around in order to save him and have the satisfaction of killing him officially. On that analogy I suppose the 13 States have established the eight hours a day in order to preserve the present efficiency of the laborers in the State institutions, and to preserve their efficiency for the future when they go into further punishments). If these hours are long enough for Government and State employees and convicts, we submit to you gentlemen that eight hours a day constitute a long enough day for children between 14 and 16 years of age who have just come out of school, who are in the very midst of that radical change that comes to every child at that time of life, going through the adolescent period, when they need protection and care, not only for their education and morals but for their physical health.

The fourth standard refers to night work, and there are at present 33 States and the District of Columbia and Porto Rico that forbid the employment of any children under 16 years of age at night—a majority of the States.

A question at this point might reasonably be asked: If so many States have taken this stand—if within the past 10 years so many States have made such advances toward the standard sought in this bill—why, then, this relief from the Federal Government in accomplishing what seems to be a foregone conclusion in the future by State legislatures? The fact is, in a number of these States I have mentioned the law refers only to specific industries, and I am mentioning them here simply to establish a principle as a standard and not as affording the protection that is sought.

The sentiment in many of these States where the laws are more sweeping is that while they would not fear protecting the children against these conditions, yet, as a matter of fact the laws are ignored. In some of the States the departments of factory inspection are entirely lacking. The State will pass a law, but make no provision for the machinery to enforce the law. In other States the inspection departments are either so limited by small appropriations or such a small force or so tied down by other conflicting influences that their efficiency is greatly impaired.

STATEMENT OF MRS. FLORENCE KELLEY, GENERAL SECRETARY OF THE NATIONAL CONSUMERS' LEAGUE.

Mrs. KELLEY. Mr. Chairman and gentlemen of the committee, Mr. Lovejoy has covered, I think, the theoretical points and a large part of the practical points in favor of the passage of this bill.

Our industries are increasing. One State after another changes from an agricultural State to a manufacturing State. We find this process going on in the most conspicuous manner in New Jersey, where formerly there was chiefly fruit growing and agriculture, but now every steerage that comes into the port of New York brings with it children who work in the manufacturing industries there. The compulsory-education law is very laxly enforced in New Jersey. We do not ask the Government to interfere with that, but we do believe this proposed Federal law would come to the rescue, right there in that one State, of an increasing number of children every year that passes, and there has been dire need of it.

It is over 30 years since I enlisted in the effort to get better legislation for the protection of the children. I believe there are more children under 16 years old working to-day in dangerous occupations than there were when I began, because our manufacturing industries have increased stupendously and our State legislation has halted. There has been no unity in our progress. The 48 States suggest the legs of a centipede, some going forward and some paralyzed, the total progress lamentably slow. This Republic is one, and we can not go on forever with a favored class of children in the northwestern States, where there is a requirement that the children shall not work until they are 15 years of age, and they are kept in school throughout the eighth grade, while in the southern cotton-manufacturing States there is no compulsory education, and either entire lack of legislation by the State or a collection of nugatory laws. South Carolina at one time restricted the work of children to 10 hours a day, but afterwards decided that life was too easy for them and prolonged the hours to 66 hours a week, and permitted 11 hours a day for young children. We can not, as one Nation, go on having favored children in the northwest and oppressed, helot children in the southeast. We can not go on having such a relation as that now in Pennsylvania, where children 14 years old may work all night in the glassworks, and in West Virginia there is no enforcement whatever of the child-labor law. They work at any age.

In Ohio, the State adjacent to those two, boys can not work until they are 15 years old—in manufacture—and can not work at night until they are 16, and the law is enforced. It is hard upon the children to have such discrepancies.

One argument advanced in favor of the proposed Federal law—the Palmer bill—seems to me not very important. I refer to the plea that it is unjust to employers to have the law rigid in Ohio and lax in West Virginia. Some employers claim that it is of advantage to the employers in West Virginia. I do not think it is of advantage to any industry to exploit children. The advantage to-day is with the Ohio manufacturers, where they have a law which makes them carry on their industries on a better and more efficient plane.

In regard to child labor in the various States and the varying enforcement of the laws, referred to by Mr. Lovejoy, I was at one time chief inspector of factories and workshops in the State of Illinois. I found great numbers of children working at night—working illegally. The superintendent of a glass-bottle company told me himself that this occurred once when he was rushed with work: A widow had come to him bringing two little boys, one still in kilts and one in knee breeches. She told him that their father had just been killed on the railroad, and that they were penniless; and she wanted the older little boy to go to work in the glassworks, where he would get 40 cents a day. The superintendent was pressed for boys, and said, "I won't take the bigger fellow alone, but if you will take the baby back home and put him into knee pants, and then bring them both back in trousers, I will take them both." She did so, and those two little fellows, aged 9 and 7 years, began their work on the night shift. That was illegal. I prosecuted that concern for its illegal employment of children. I brought the officers before a local magistrate, and the case was thrown out. Our magistrates in New York City have done that same thing within a month. They have refused outright in the court of special sessions to consider a case they did not wish to hear. I then brought suits against the Illinois Glass Co. in four adjacent counties, and all the magistrates refused to entertain a case. It was not until after my term of office came to an end that my successor began bringing cases in the northernmost counties of Illinois. This glass company was down in Alton, in the south of the State; and it was not until my successor adopted the method of bringing the officers of that company and all his witnesses entirely across the State to the northern counties that he could get a hearing at all. I believe that, in the interests of the children, one of the greatest benefits that would accrue from the passage of this bill would be the transfer of cases like that from local courts, terrorized by local large manufacturers, to Federal courts, where such terrorism does not prevail.

STATEMENT OF MR. W. H. SWIFT.

Mr. SWIFT. Mr. Chairman and gentlemen of the committee, I am merely here to give my experiences, after two years' observation, in that section of our country which, I am sorry to say, is one of the most flagrant violators of any law that is made with reference to the employment of young children. I have no desire to cast any reflections on my State—I may say I am from North Carolina—and I have spent two years going from factory to factory for the purpose of seeing whether or not a large number of young children were employed.

The CHAIRMAN. What is your relation to this subject?

Mr. SWIFT. I am the secretary of the North Carolina child-labor committee, the secretary of the South Carolina child-labor committee, and have been for two years paid for my services by the National Child Labor Committee.

Now, if we should find that this law is constitutional and that it is all right, then you will take into consideration whether or not it is wise in this country to have a law forbidding the employment of children under 14 years of age in the manufacture of goods to be shipped in interstate commerce, and in mines under 16. I have spent two years talking about this matter face to face with men who are in the habit of using children for the manufacture of their goods. So far as I now remember, I have never heard a single man, either in North or South Carolina, claim that it would not be a good thing for the child and for the community to forbid the employment of children. The best reason why it would be good to have such a law I heard expressed by a mountaineer. I was talking to a little body of mountaineers about this matter, and after I got through a long, skinny fellow got up and said, " I have some folks who are working their young ones in the mill, but I am with you, and I will tell you why: We are cattle raisers up in this country, and I notice when a fellow gets a good heifer up here to raise fine stock he does not put her to work." That was his reason for being in favor of a restricted law.

But, passing that over, the question will come how, in this country, are we going to be able to restrict the use of children in manufacturing establishments and in mines? There are just two possible ways. It can be successfully done by the Federal Government. In some States it can not be successfully done for a great many years by the State governments. Some of the States, of course, will enact and have enacted laws which forbid the use of children under 14 years of age or for more than eight hours a day. In other States, where the same goods are manufactured and come in competition with the goods manufactured in the other States, they do not have this law. There are other States which have an 11-hour law and 12 years as the limit, which is not observed. Take my State of North Carolina, or South Carolina, the age limit is 12 for the employment of children. The hours of labor are 11 hours a day for five days in the week, with a short Saturday. I, myself, have seen children under 14 years of age—I do not think they could have been over 13 and, perhaps, not over 12—working 12 hours all night long, and I was informed they did not even stop for a midnight lunch. In other words, North and South Carolina are engaged largely in the spinning of yarns; that manufacture has become a tremendous industry in our section--95 per cent of all yarns spun in either of these two States, or all cloth woven in those States is spun or woven by the work of children under 14 years of age; in a large number of cases under 13 years, and in many cases, from personal observation, under 12 years.

South Carolina has enforced pretty well the age limit of 12 and the 11-hour day. To show you how this thing works: In 1905 we passed a law in North Carolina that no child under 12 years shall be employed; that after 1907 no child under 13 should be employed, except in an apprenticeship capacity. Now, I think any reasonable man would understand that it was meant that after 1907 there should be fewer children than in 1905, but the fact is that as soon as we passed that law every child engaged in the manufacturing of cotton in North Carolina took an " apprenticeship." So we should not have put that exception into the law. Why did that occur? It occurred for this reason, and this is the ruling reason: A certain number of our people wanted to use children in the manufacture of goods. A certain other number of our people, either through ignorance or what they consider to be poverty, feel driven to employ their children. We have had in my State a great many agents come into the State, into the rural communities, and tell our farm people who were not very successful what a good thing it would be to live near the manufacturing establishments and put their children to work. The result is that thousands of our people have moved to these manufacturing establishments and have been in a measure successful, but a part of their success is based upon the fact that that part of their family between 12 and 14 have been working 11 hours a day in order to bring in the money which they make.

The CHAIRMAN. Mr. Swift, can you tell us who seem to be the worst offenders as parents in that respect—the colored or the white parents?

Mr. SWIFT. We have no colored factory workers in my State at all; no negroes, so far as I know, except one silk mill. No colored people work in the manufacturing establishments; they are white people.

Mr. MAHER. Are they native white or immigrants?

Mr. SWIFT. Ninety-nine and nine-tenths per cent——

Mr. MAHER (interposing). Are native white?

Mr. SWIFT. Yes, sir; we scarcely have any foreigners down there at all.

The CHAIRMAN. Is it a fact in the South that the colored children do not work in those mills and the white children do?

Mr. SWIFT. Yes, sir.

Mr. PALMER. Why is it?

Mr. SWIFT. Well, sir, we do not want colored people in our mills. I think it has been tried, but it was not successful.

Mr. MAHER. They prefer to kill white children instead of colored children?

Mr. SWIFT. Well, that is going a little far; but they use the white children.

The CHAIRMAN. That means that the little colored children play around the streets and fields and the white children are at work.

Mr. SWIFT. Yes; it means more than that. I do not want to reflect on the State, but I have seen a great many strong, robust negro children, 12 to 14 years of age, on their way to school, while the white children were working from 6 in the morning until 8 in the evening.

Mr. Maher. White children?

Mr. Swift. Yes, sir; but I must not talk too far, because I have to go back home.

The Chairman. It is your duty to tell this committee all you can.

Mr. Swift. I am doing it as I have seen it. You ask me why that is. I give it to you as my opinion that children in this section of our country—in my section—will not get ample protection within the next 5 and, I think, 10 years unless the Federal Government gives it to them. Having for two years gone hard up against this proposition, I am thoroughly convinced that if you leave it as it is and go there in five years you will find plenty of children under 14 years of age at work. We have had this law protecting children up to 12 since 1905. I have seen many violations of it. So far as I now know, there has not been in my State but one prosecution for the employment of a young child. The reason of it is because the manufacturers are influential. They control the thought, and I think they will do it for some time.

There is another point on this. The reason we do not do it is this: North Carolina and South Carolina are adjacent. If in North Carolina we undertook to change the age limit and the hours, we are met with the proposition that South Carolina has not done it, and the people will move across the line, and then when we go to South Carolina and suggest that we change the age limit they say North Carolina will take all our wealth. A law of this kind will solve the problem so that North and South Carolina would be working on a fair basis, and fair with every other section of the country. I can not see any way by which it can be done successfully except by the Federal Government, and it will be done wisely that way. Take this as a case: You indict a man in my State. He would be indicted in the county in which the offense was committed and a jury gotten from that county. If he was tried in the Federal court, the jury would come from several counties, and if he violated the law he would be found guilty.

The Chairman. Have you traveled pretty extensively through the different States?

Mr. Swift. I do not know anything of any State except North and South Carolina, except Virginia. You take Virginia. It has a higher age limit than we have—two years higher than in North Carolina. I remember passing from a small village in North Carolina over the line into Virginia. It looked like going into a new country. These North Carolina villages look as though school was just letting out when the children come from the mills.

Mr. Nolan. Is there any scarcity of white children in North and South Carolina for the mills?

Mr. Swift. I understand there is considerable demand for children there.

Mr. Nolan. They might experiment with the colored children.

Mr. Swift. I doubt it, because I do not think our white people would work with the colored people in the mills.

Mr. Nolan. I thought possibly the reason for that was that the white children were more proficient.

Mr. Swift. I think there is something in that.

Mr. Nolan. If there was a scarcity, they would not hesitate in making some provisions to exploit the colored children, even to the extent of segregation. I do not suppose it is any consideration for the feelings of any of the children that prompts the employer not to employ the colored children?

Mr. Swift. No; I do not think that; and it is not willingness to hurt any of the children. They simply started in the business when they worked up to 13 hours a day, and they have to go slow in getting out.

Mr. Nolan. That probably accounts for some little scarcity.

Mr. Swift. And then another thing: Farming has been looking up down my way, and a great many people are staying on the farm, and we have done a little work among these people.

Mr. Keating. What is the sentiment in the communities in which these children are employed?

Mr. Swift. It is generally favorable to employment. That, in my opinion, is the worst feature of it. I know the loss of a child is a great thing. I think it is a loss to the business. In my opinion, the worst feature is to have certain communities in your State think it is all right to work children. That undermines more than anything else the standard of the whole community life.

Mr. MAHER. Are the parents who approve of the employment of their children illiterate?

Mr. SWIFT. Yes, sir; as a rule; some of them are poor.

The CHAIRMAN. They grow to be dependent on the child's labor in a degree?

Mr. SWIFT. Yes, sir. In most cases, I think, they move to the mill for the purpose of making the children contribute largely to the support of the family.

The CHAIRMAN. It does not always mean the parent is lazy?

Mr. SWIFT. Not always, but, unfortunately, it frequently does. But there is another side of it. I hold in my hand a part of a report from the department of labor of my State. The per cent of children in 50 mills in my State runs from 16 to 80.

Mr. PALMER. Children of what age?

Mr. SWIFT. I can not tell you; nobody knows whether it is 16 or 18 or 21. I hope it is 21; but, you see, our department of labor is a joke. We have pretty good mine inspection. We have only four mines, and I think two of them are shut down; but when it came to regulate the employment of children in factories we bound the hands of our own officers, and they will keep bound unless the Government steps in. And, speaking of my own State, I think a large body of our people feel that it is time—since we can not do what is right for ourselves and since these boys and girls are as good people as this country affords—for this Congress and this Government to give to our boys and girls the same chance as the majority of the children of this country have.

STATEMENT OF MRS. JOHN B. WEBB, REPRESENTING THE NEW JERSEY STATE FEDERATION OF WOMEN'S CLUBS.

Mrs. WEBB. This is a most unexpected honor, Mr. Chairman, and I regret to say that I am not prepared to offer anything to the committee at this time. I only come to you to plead, in the name of all the women of the State of New Jersey, for the children of the Nation. We have a problem, as you know, with child labor in many places in the State of New Jersey, and we feel we can not meet these problems without the aid of a bill of this kind; that otherwise we can not protect the children. We are trying to frame some child-labor bills there which will cover the interests of the children and protect them, but we find it is going to be almost impossible to get such a bill through unless we have back of us this Federal bill.

I am not prepared at all to make any statements about the conditions in New Jersey. I think, perhaps, those are quite familiar to you all; but I do appeal to you, in the name of the women of New Jersey, to help us pass this bill to protect the children.

STATEMENT OF MISS JULIA C. LATHROP, OF THE CHILDREN'S BUREAU, DEPARTMENT OF LABOR, WASHINGTON, D. C.

Mr. PALMER. Mr. Chairman and gentlemen, I take pleasure in now presenting to you Miss Julia C. Lathrop, who is, as we all know, at the head of the Children's Bureau of the Department of Labor.

Miss LATHROP. Directly the bureau was organized its correspondence revealed afresh a country-wide desire to get rid of child labor, a conviction that there must be abolished any condition which defrauds the child of his right to education and a fair start in life. In addition to the correspondence, which showed this very wide popular feeling, last year it was my duty to go much about the country stating as well as I could the purpose and scope of the bureau, and I found everywhere groups of people very deeply interested in the question of preventing child labor, persuaded that it is the duty of the public not merely negatively to abolish the premature labor of children but to provide those opportunities for the just development of every child which the ideal of a sound democracy requires. These were people not always skilled in legislative wisdom, but who were only waiting for the passage of such a measure as this to take hold of the task of substituting for the labor of children the training which is their due, of putting child training in the place of child labor. The passage of such a measure as this would undoubtedly signalize a distinct and immediate advance in the provisions for the hygiene and education of children.

The CHAIRMAN. You are perhaps prepared to give an opinion upon a question like this: Do the medical authorities find it to be a fact that the stress of continuous labor, industrial labor, affects the growth of the child, the ordinary physical development of the child?

Miss **Lathrop**. I think that all European and American authorities alike agree upon that. Of course the labor of children is very largely surrounded by such other disadvantageous conditions outside of the factory as go to make the factory injury, from impure air or overspeeding, even more disadvantageous to the child than if the child came from a happy and luxurious home, to which he or she returned, where health and comfort were preserved in every respect outside of the hours of labor.

The **Chairman**. What age or period of the child's life has been indicated by the physicians as the appropriate age at which labor could safely begin?

Miss **Lathrop**. I am not aware that there is any uniform decision by the medical profession on this matter, but I notice that every year those who study most carefully the growth and development of American children push that age further and further ahead, whether they are educators or whether they are physicians, or whether they are interested in any form of civic improvement where the interests of the child are concerned.

The **Chairman**. I do not know whether that indicates a general sympathy for childhood or whether it indicates a medical opinion as to the fact.

Miss **Lathrop**. I think it very emphatically indicates a medical opinion. Such material as was gathered by Josephine Goldmark in her book on Fatigue and Efficiency is testimony in that particular. There are many medical opinions and brief studies scattered through the whole literature of child labor, but thus far, with the exception of the volume on Fatigue and Efficiency, I know of no general compilation.

Mr. **Palmer**. Mr. Chairman, may I ask a question?

The **Chairman**. Yes; certainly.

Mr. **Palmer**. Miss Lathrop, everybody recognizes there are certain kinds of labor which are healthful for young growing persons. There is no attempt being made anywhere, through Europe or anywhere else, to build up a sentiment against labor of all kinds for children, is there?

Miss **Lathrop**. I suppose there is everywhere an effort being made to build up a sentiment against labor for children during the years in which the consensus of educational and medical opinion alike indicates they should be going to school, getting the training of the hand and mind alike, which will enable them to make the most of their resources later in life.

Mr. **Palmer**. It is recognized that labor in the summer time, in school vacation, any outdoor healthful pursuit is not necessarily detrimental to a child's welfare?

Miss **Lathrop**. Under proper regulation as to hours and supervision I think that would be recognized.

Mr. **Palmer**. The whole evil arises out of the exploitation of children in mills, factories, mines, quarries, and all that sort of thing, where every day's labor decreases the moral and physical efficiency of the child.

Miss **Lathrop**. I do not know that it would be a popular thing to say, but it is my opinion children may be exploited on the farm as well. But that certainly is not within this bill.

Mr. **Palmer**. How far has your bureau gone in the investigation of this child-labor proposition, so far as gathering statistics may be concerned?

Miss **Lathrop**. I should like to explain to this committee the attitude of the Children's Bureau. The bureau was confronted by the field marked out for it by this committee, namely, to investigate and report upon all matters pertaining to the welfare of children and child life among all classes of our people, and at the same time by the fact that its staff consisted by 15 people and its appropriation $25,640. At the same time the $300,000 investigation by the Bureau of Labor into the labor of women and children was still not entirely published, and it seemed grossly absurd to put the two field investigators provided by the law for the Children's Bureau on this subject; so that we did not begin our field inquiries by further investigation of child labor. We have. however one member of our staff whom we designate within the bureau as expert upon industrial matters, and who is now carrying on inquiries as to the method by which labor certificates are granted and as to the frequent changes in the work of children between 14 and 16, as to how far such changes are educationally valuable or demoralizing to the child.

The **Chairman**. Is there not a publication of the Department of Labor on child labor forthcoming and ready for print?

Miss **Lathrop**. Of course they have published certain material on child labor. The full report on woman and child wage earners in the United States contains much material on child labor, and in the reports on the glass industry and textile mills there are special sections on the relation of labor to health. Thus on pages 385–386 in the report on the textile mills (Vol. I) the greater liability of children to accident is shown, and pages 47–59 of the report on the glass industry (Vol. III) describes the great physical strain of the work for boys, and pages 433–447 the relation to health of the work of girls in this industry. Volume XIV, on the causes of death among women and child cotton-mill operatives, is suggestive in this connection. I have been told that it is intended to make a popular condensation of all the reports. I do not know how this is progressing.

Mr. **Hawley**. May I ask a question, Mr. Chairman?

The **Chairman**. Certainly.

Mr. **Hawley**. There is in the world a growing sentiment in favor of vocational education. You have been interested in that?

Miss **Lathrop**. Very greatly.

Mr. **Hawley**. There is nothing in this bill that would interfere, you think, with the carrying out of that plan of vocational education?

Miss **Lathrop**. If I did not think the bill would greatly serve that end I should be absolutely against it. There is appended hereto a statement prepared by Dr. Arthur Reed Perry, of the Bureau of Labor Statistics, under direction of Dr. Royal Meeker, the commissioner of the bureau. I think this statement is unique, and feel that I can greatly clarify my statement by adding it:

"There is now being prepared by Arthur Reed Perry, M. D., through the United States Bureau of Labor Statistics, an extension of his 1905 to 1907 study of factors that shorten lives of women and child operatives in cotton manufacturing cities (published as Vol. XIV of the nineteenth volume report upon woman and child wage earners, S. Doc. No. 645, 61st Cong., 2d sess.), that will be based upon accompanying circumstances or phenomena of the lives of all persons aged 10 to 64 years dying in Fall River, Mass., during the semidecade 1908 to 1912—the initial study (Fall River) in a survey series of antilongevity causes in manufacturing cities of foremost rank in the several industries.

"Possibly the most conclusive arguments against allowing children under 16 to work is the showing, both in Vol. XIV, p. 72, and in this coming supplementary study of Dr. Perry's, that girl cotton operatives (most of whom even in New England, prior to 1912, began millwork before their fifteenth birthday) after working in the mill only a few years have become very much more liable to die than holds true of the aggregate other girls of their city of the same age.

"Table 84, page 400, of this Volume XIV, shows that a sixth (16 per cent) of the female operators dying from tuberculosis within the cities included in that study began millwork before they were 13 years of age.

"Tenacity of life is at its zenith around the age of puberty. Conditions must be superlatively bad, therefore, in order to kill outright children either near the age of 14 or those on the threshold of youth in the post-puberty age period, 15 to 19.

"Vitality conservation quite as much as stature increase is the function of adolescence.

"This is the period, therefore, during which should be jealously safeguarded for the child his inhert right, perquisite, pleasure, and duty to accumulate and save from nature's gifts of vitality, lavishly bestowed upon him daily, a store that later drawn upon will predicate a favorable issue over misfortune and accident, stress, and disease.

"Nevertheless, advantage has been taken of their tenacity of life to impose upon children working days so long, tasks so unsuitable, or workshops so unhygienic that, barely to exist as he is, the child is obliged each day to draw upon and use what nature intended for present growth and for later emergency use to insure longevity.

"For even in these childhood, post-puberty, and youthful years of designed vitality-plenty apparently for some operative girls the exigencies of daily living already had used up their reserve strength, because in three cotton manufacturing cities during a period of three years the number of deaths from tuberculosis to each 1,000 girls of each designated occupation class of specified age Volume XIV shows (Table VI, p. 198) to have been as follows:

Age groups.	Mortality from tuberculosis among females of Fall River, Mass., Manchester, N. H., and Pawtucket, R. I., in 1905-1907.		
	Cotton operatives.	All other (nonoperatives).	Total both classes.
Death rates:			
10 to 14	2.21	0.54	0.59
15 to 19	2.19	1.10	1.54
20 to 24	3.04	1.24	1.93
Per cent of excess in death hazard of operatives over nonoperatives:			
10 to 14	309		
15 to 19	100		
20 to 24	145		

" Operatives thus, of the most youthful age group were four times; those of the post-puberty group were twice; and those of the young adult group—20 to 24—were about two and a half times as liable to die from tubercuolsis as were, respectively, the girls of like age that did not work in cotton mills. It must be remembered that one-half of all female operatives are aged 15 to 24 and that, therefore, this group is a fair sample of the cotton industry.

" It is scarcely less than obvious that the groups 15 to 19 and 20 to 24 together comprise about the very earliest age period in which " premature age at beginning wage earning," or occupation, childbearing, or, in fact, and other life incident or accompanying circumstance, however debilitating, could have so depleted a worker's native store of resistance and vitality as to have resulted in death.

"And yet Volume XIV has shown, furthermore (Table 52, p. 325), that thus early in life, exercise even of the natural functions of childbearing, by Fall River operatives of 1905 to 1907 was attended with an enormously greater hazard to life than it was for nonoperatives similarly aged. (Operative rate from parturition, .56 per 1,000 of whole population aged 15 to 24; nonoperative rate from the same cause, .06 per 1,000 of whole population aged 15 to 24.)

" Moreover, the same table shows that the whole liability of female operatives aged 15 to 24 to die from any and all causes (5.30 per 1,000) was more than one and three-quarters times as great as obtained in the case of nonoperative girls of the same age (2.96 per 1,000).

" Obviously it may be objected that there is an appreciable degree of inequity in comparing the death rate of a class—the operatives—all of whom work, with the death rate of nonoperative girls of the same age, since some of the latter are not wageworkers.

" The excess hazard of the operatives, however, is so enormous as more than to offset any unfairness in the comparison.

" To guard against even the possibility of misapprehension perhaps it should be pointed out also that there is a considerable degree of probable unfairness in comparing, as respects their hazard from parturition, the whole class of operatives with that of nonoperatives, irrespective of conjugal condition.

" Because, though at the age of 15 to 24 the female population of Fall River, married and single together, is almost equally divided between operatives and nonoperatives, it is extremely likely that operatives constitute a considerable majority of the whole married population of this young-age group. Still the comparison, though admittedly inexact, can not mislead, because (all) operatives, as has been noted above, were 10 times as liable to die from childbirth as were (all) nonoperatives of the same age, and there is no probability that married operatives were anything like 10 times as numerous, even in age group 15 to 24, as were the married nonoperatives.

" It is now becoming in some degree appreciated how much misery and inefficiency result from long-unrecognized defective vision, and how large is the number of deaths in middle and later life that basically are attributable to unidentified lesions caused in childhood by the so-called mild contagious diseases—as measles and whooping cough—as well as to the severer ones—scarlet fever, diphtheria, pneumonia, tonsilitis, and influenza.

"Hence accompanying the crusade for a high age limit for beginning wage earning, and of no less value practically in conserving health through preventive measures, should be a demand for an 'employment physician' with power, after a thorough physical examination of applicants, to refuse an employment permit to anyone until crippling defects of vision, nutrition, or disease shall have been corrected, and to withhold from any applicant a permit to work in such industries as shall be deemed grossly inimical to the applicant's longevity. The applicant, for example, with incipient tuberculosis should be withheld from employment in indoor dusty occupations, and he with a leaky heart valve should be kept out of the heavier and physically more strenuous trades. Moreover, whenever change of employment is sought it should be the physician's duty also to reexamine each such applicant and to grant or refuse a certificate for reemployment, whether in the same or in a new industry, wholly with reference to applicant's physical condition at that time. Incidentally, through such reexaminations ultimately there may be learned much respecting the effect of occupations upon the health.

"(Respectfully submitted March 18, 1914, by Arthur Reed Perry, M. D.)"

STATEMENT OF MR. JASPER YEATES BRINTON, OF THE PHILADELPHIA BAR, PRESIDENT OF THE PENNSYLVANIA CHILD LABOR ASSOCIATION.

Mr. PALMER. Mr. Chairman, I desire to next present to the committee Mr. Jasper Yeates Brinton, a member of the bar of Philadelphia and the State of Pennsylvania, and president of the Pennsylvania Child Labor Association.

Mr. BRINTON. Gentlemen of the committee, from Pennsylvania we come to this hearing with high hopes. Session after session at our legislatures we have been met by the cry from the manufacturers, "State legislation is unfair. You ask us to compete with other States of different standards. This interstate competition will ruin our business. If we must advance, let us advance together." It is to meet this argument, which however unfounded in fact it may be in any particular instance, is yet the most effective argument that confronts the child-labor cause in America to-day, that this bill has been introduced, and you can believe that we, in whose ears it is still ringing, come with a peculiar conviction and enthusiasm in support of this effort to lend Federal aid to what has become a truly national evil.

For let me remind you that it is from the Federal Constitution that every manufacturer is guaranteed the right to ship his goods freely into whatever States he pleases. By its wise prohibition no other State may lift a ban against him at its borders, whatever unequal advantage he may have enjoyed or from whatever inhuman working conditions his product may have sprung. The Nation may do this (and has done it in the convict-labor clause of its tariff laws) under the powers surrendered to the States by Congress. But not so the States themselves, who have parted with this power. There was a day when this was otherwise. But it was an evil day. It has been called the critical period of American history. The States could then prohibit as they choose, and it was largely due to the evils which attended the lodging of this particular power in so many sovereignties that the new Constitution was adopted, in which for the good of all it was surrendered to the National Government.

The condition which confronts us to-day is therefore in actual fact largely a problem of interstate competition through interstate commerce; a condition emphasized in every child-labor campaign in every State; a condition certain to grow more hopeless as conditions of competition become constantly more intense. Interstate commerce is at the root of the evil as it exists to-day. The interstate-commerce power alone is adequate to effectively relieve it.

May such power be constitutionally invoked, as in the bill which is now before the committee? Or rather (assuming that the passage of the bill is to the interests of the people, and if it is not so it will not be passed), can such a case be made against its constitutionality that it is the duty of Congress to anticipate a certain adverse decision by the Supreme Court and therefore to defeat the measure?

Nor is it common experience that a problem carefully and accurately stated is often a problem half solved. To avoid covering unnecessary ground, let me therefore spare a few minutes at the outset of our discussion in endeavoring to reduce to its narrowest limits, the precise question we have to meet. For surely, so far as the Supreme Court has rendered decisions covering any features of the situation presented by this bill, we need waste no time in going behind those decisions, but may use them as a starting point of our discussion to-day.

How far, then, have these decisions gone? What conclusions can be incontrovertibly drawn from them? What difference, if any, is presented in the actual facts between the decided cases and the act before us? And what, then, are the considerations to which we must look for light as to the application of the principle found in these decisions to the legislation now proposed?

To put the matter as briefly as possible, I begin by asking you to have in mind two comparatively recent laws, one of which has been conclusively sustained by the Supreme Court in a decision familiar to you all; the constitutionality of the other of which has been affirmed by many of the lower courts and assumed in discussions of that act before the Supreme Court and tacitly accepted by Congress and the Nation.

I refer to the lottery act and to the food and drugs act, from the principles of which I ask you to note these two incontrovertible conclusions—conclusions sustained by numerous prior decisions, with the recital of which I will not burden you—equally applicable to the case before us.

The first is, that lottery tickets and misbranded goods are articles of commerce, and the second is that regulation of interstate commerce in these articles may take the form of prohibition.

Now, you will, of course, note at once that there is a considerable distinction between these two acts and those earlier acts, familiar to you all, which have prohibited the carriage of articles likely to endanger commerce itself, as, for instance, nitroglycerine, or loose hay, or other combustible materials. In these acts the prohibition was designed primarily to protect the people from dangers incident to the physical carriage itself. In the two later acts, however, with reference to lotteries and adulterated and misbranded food products (as also in the case of those various other acts relating to falsely branded dairy products and condemned carcasses of animals and quarantined articles and obscene literature), it is obvious that the courts have passed beyond the consideration of a danger to commerce inherent in the articles, and have looked to a possible injury to the public resulting from the future use of the articles by the consumer, after commerce has been terminated. The use of lottery tickets is calculated, in the judgment of Congress, to debauch the public morals. The circulation into commerce of misbranded and adulterated goods is calculated to deceive and injure the people who use such goods.

The single question, then, which presents itself is this: Can a controlling distinction be drawn between a power in Congress to prohibit the interstate transportation of articles adapted to deceive or defraud the consumer, or injure his health or morals, and articles whose manufacture has injured the health and morals of the children employed therein? In other words, may Congress look forward to the effect of such articles upon the consumer for whose benefit they are produced, but not backward to the effect of their manufacture upon the worker and the industry by which they are made?

In answering this question it is important to remember at the outset that we are concerned solely with the problem as to whether the proposed legislation is or is not a regulation of interstate commerce, within the meaning of the Constitution. If it is a regulation (and does not violate some specially protected right under the Constitution) it is constitutional. If not, it is not constitutional, and the question as to whether it incidentally affects the conditions of manufacture in a given State—conditions over which Congress itself has no primary right of control—is altogether beside the point. I say it is important to remember this, for at the bottom here is to be found the real source of all the objections that have been made in the past to legislation similar to that now before you.

It is an argument, indeed, which has, as I see it, for once deceived the legal judgment of so great a lawyer as our last President—and when I say this I speak with a sincerity of respect born not from political agreement, but from a personal study of every judicial decision which this great judge wrote. Sometimes, indeed, I wonder if any other soul alive, except himself, can say as much as this. But here, as in other matters, we have disagreed.

In a few sentences, in his recent little volume on popular government, he attacks the proposed bill and sums up his argument in this sentence:

"In other words, it seeks indirectly and by duress to compel the States to pass a certain kind of legislation that is completely within their discretion to enact or not."

Mr. Hawley. What is he referring to?

Mr. Brinton. This sort of legislation. That quotation is from his little book entitled "Popular Government." It is published by the Yale University Press.

Let me call attention to this fact: "To compel the States to pass a certain kind of legislation." I want to impress that upon the committee, because it is an argument that has been brought up and will be brought up again. But this bill does not compel the States—does not invite the States—to pass any kind of legislation. Absolutely it is an incorrect statement. The bill concerns itself only with the legislation by Congress and only with that phase of commerce that is under the sole jurisdiction of Congress, and, in so far as it is true that it indirectly affects conditions in the States, this fact is equally true of the food and drugs act and a dozen other acts of similar nature. I ask you to consider that objection.

The CHAIRMAN. Of course, as a lawyer, you want to meet the difficulties.

Mr. BRINTON. That is what I am here for.

The CHAIRMAN. In that connection I want to suggest hypothetically this state of affairs: In dealing with the question of pure food you have presented a problem like this: The State in which the goods were manufactured had no power to legislate with reference to their interstate commerce.

Mr. BRINTON. Precisely.

The CHAIRMAN. The State to which they were consigned and in which the consumer lived, whose health might be affected by their use, had no power to deal with the interstate commerce in such matter. There was only one legal power, therefore, that could effectuate the object of restricting the interstate commerce in pure food, and that was the power of Congress. Does that legal fact present itself here? A State that now has no 14-year or 16-year provisions might enact a provision, and they would be legally affected. A State where the article is manufactured might do so. That presents the legal difficulty, although I recognize the competition fact is a dominant circumstance. I would like to hear you with reference to that situation.

Mr. BRINTON. That is what we want to meet here. But the State certainly has the right, in the first place, I think, Mr. Chairman, to prevent the sale within its borders of foods or drugs which are going to injure the health of its people, irrespective of whether they are or are not articles of interstate commerce. That was decided in the oleomargarine cases. While, until the Wilson act was passed surrendering certain of the rights of Congress, the State could not prevent the sale of whisky imported from another State, the rule is different in the case of poisonous food products. Their right here arises from the same power as their right to pass child-labor laws. The analogy is just the same. They have a right to protect themselves against child labor, if they want to do so, so far as it is confined to their own State, and they have a perfect right to pass their own food and drugs act, have they not?

The CHAIRMAN. I might have some doubt about that. The State of Pennsylvania would have the power, for example, to say that diseased meats should be subject to certain disposition after they reached the State. That is your position?

Mr. BRINTON. Yes; after they reach the State, because, under the police power which applies to all goods coming into the State, it could regulate anything affecting the health or morals of the people.

The CHAIRMAN. And that answers the suggestion that only Congress could have dealt with the pure-food situation?

Mr. BRINTON. But the point I want to make is this, that the passage of the pure food and drugs act certainly has the effect of establishing a national standard for the States. The State might not want to have that national standard. The State might say, "We do not want any of these standards in our State. We are self-governing." But that is only the indirect result, is it not? The passage of the food and drugs act may, therefore, raise the standard of all the States, because nobody can make up drugs to pass out of the State that do not comply with the national standard; and, of course, we are only considering it in the broad view, and assuming that most manufactured articles are made with a view to the possibility of their entering interstate commerce. I say the indirect result of the food and drugs act is to lift the standard for the States, and the indirect effect of this is going to be to lift the standards of the States, and that there is no difference whatever between them on that score.

And yet no one has seriously objected to the food and drugs act upon this account.

The argument, then, looks to an incidental effect, that ignores the inherent nature of the law as a prohibitory commerce act, and its limitations to a sphere strictly within the control of Congress.

This proposition has been clearly stated by one of the most distinguished authorities on constitutional and administrative law in the United States, Prof.

Frank J. Goodnow, of Columbia University, now constitutional adviser of the Chinese Government and president-elect of Johns Hopkins University, in a small but very notable volume entitled "Social Reform and the Constitution," in which he unequivocably declares in favor of the proposed legislation. Let me give you his words. After referring to the provision of the Constitution that the laws of Congress made in pursuance of the Constitution shall be the supreme law of the land, Prof. Goodnow makes this statement:

"Men's minds are peculiarly twisted when they argue, under a constitution containing such a provision, that a regulation purporting to be a regulation of interstate commerce is not such because it will necessarily have the incidental effect of regulating conditions of manufacture. The only reason why it will have this incidental effect is because in the economic conditions of the present day manufacturing has ceased to be a State, and has become an interstate matter. A State with no factory legislation can, in the present conditions of interstate transportation, underbid a State which seriously attempts to improve the conditions of manufacturing. The denial by the Federal Government of the right of the States to protect their laboring population against competition based on cheaper and lower conditions of labor, really makes it incumbent on the Federal Government to exercise its constitutional powers to the fullest extent in the interest of the laboring classes, which the States can no longer protect."

The CHAIRMAN. As an original proposition, without reference to the effect upon the employment of the child, would Congress have the power to say, with pure reference to commerce itself, that conditions which render participation in that commerce by the manufacturers of the different States unequal and discriminatory should be eliminated, and might not that condition be the employment of child labor in one State, prohibited in another?

Mr. BRINTON. I think the argument must go to that extent. I shall come to that in just a moment. I want to meet that very question as to how far it is going to lead us. But for a moment I would like to return to the question I was discussing.

Is there a substantial distinction in principle between an act of Congress which regulates interstate commerce in an article with respect to certain qualities likely to affect the consumer, and an act which regulates commerce in articles with respect to the effect which the manufacture of such articles has had upon industry and the labor employed therein; in other words, is the protection of industry—the conservation and protection of its labor—a proper subject in whose interest may be enlisted the interstate commerce power of the Constitution?

For a denial of any such valid distinction let me quote from a recent unpublished article by Prof. W. W. Willoughby, of Johns Hopkins University, lately president of the American Academy of Political and Social Science, and, like Prof. Goodnow, one of the leading authorities in the country upon constitutional and administrative law. In an earlier treatise upon constitutional law Prof. Willoughby expressed a doubt as to the constitutionality of the legislation now proposed. In the article to which I refer, however, he presents in no uncertain terms his later opinion in support of this legislation:

"The distinction between conditions of production and purposes, or modes of use, of commodities, though a real one will probably not be held controlling. In neither case has Congress a direct regulative power—over neither the conditions of production nor the mode or use of consumption. If, therefore, in either case, the prohibition can be construed to be, in fact, a regulation of interstate or of foreign commerce, neither the ultimate effect nor the legislative intent embodied in the law may be inquired into by the courts. In result, then, it is to be admitted that the lottery case is authority for the doctrine that interstate carriers may be prohibited from carrying, or shippers or manufacturers from sending, from State to State and to foreign countries, commodities produced under conditions so objectionable as to be subject to control as to their manufacture by the States under an exercise of their police powers or of a character designed or appropriate for a use which might similarly be forbidden by law."

Is this conclusion correct? Does the protection of industry, then—the protection of the manufacturer and the protection of the worker who produces these articles of commerce—fall within the rightful function of the interstate commerce power of the Constitution?

With this precise question before us, in the light of what I have said, let me invite your consideration for a few minutes to certain propositions which, to my mind, have a very important bearing upon the interpretation of this clause.

The power of which we are speaking is to be found in some 21 words of the Federal Constitution, as follows:

"The Congress shall have power * * * to regulate commerce with foreign nations and among the several States and with the Indian tribes."

As you will see, three powers are here included in a single sentence, of which the power which we are now considering appears as second among the number.

Obviously there is nothing in the wording of this clause to suggest a distinction between power to regulate commerce with foreign nations and the power to regulate commerce among the several States, and, as a matter of fact, it has been repeatedly declared that, so far as the phrase which I have above referred to is concerned, this power is identical.

Says the great Marshall in Gibbons *v.* Ogden, that landmark on the interstate commerce clause: " * * * the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions in the exercise of the power as are found in the Constitution of the United States." (9 Wheaton, 194.)

Says Mr. Justice Johnson, in the same case (9 Wheaton, 228):

"The power to regulate foreign commerce is given in the same words and in the same breath, as it were, with that over the commerce of the States, and with the Indian tribes, but the language which grants the power as to one description of commerce, grants it to all; and, in fact, if ever the exercise of a right or acquiescence in a construction could be inferred from contemporaneous and continued assent, it is that of the exclusive effect of this grant."

Says Mr. Justice Taney in the License Cases (5 Howard, 504, p. 578):

"The power to regulate commerce among the several States is granted to Congress in the same clause, and by the same words, as the power to regulate commerce with foreign nations; and coextensive with it."

Says Mr. Justice Matthews, in Bowman *v.* Chicago & North Western Railway Co. (125 U. S., 465, p. 482):

"A power conferred upon Congress to regulate commerce among the States is indeed contained in the same clause of the Constitution which confers upon it power to regulate commerce with foreign nations. The grant is conceived in the same terms and the two powers are undoubtedly of the same class and character, and equally extensive."

Says Mr. Justice Bradley in Brown *v.* Houston (114 U. S., 622, 630):

"The power to regulate commerce among the several States is granted to Congress in terms as absolute as is the power to regulate commerce with foreign nations."

Says the same justice in Crutcher *v.* Kentucky (141 U. S., 47, p. 58):

"It has frequently be laid down by this court that the power of Congress over interstate commerce is as absolute as it is over foreign commerce."

And after pointing out that the power of Congress includes the duty of providing for the security of the people of the United States—in relation to foreign corporate bodies, and foreign individuals with whom they may have relations of foreign commerce, Justice Bradley continues:

"And the same thing is exactly true with regard to interstate commerce as it is with regard to foreign commerce. No difference is perceivable between the two."

So, too, in an earlier case, in the circuit court, before his appointment to the bench of the Supreme Court, Stockton *v.* Baltimore & New York Railway Co. (32 Fed., 9, p. 17), he says:

"We think that the power of Congress is supreme over the whole subject, unimpeded and unembarrassed by State lines or State laws; that in this matter the country is one, and the work to be accomplished is national; and that State interests, State jealousies, and State prejudices do not require to be consulted. In matters of foreign and interstate commerce there are no States."

Says Mr. Jusice Field, in Pittsburgh & Southern Coal Co. *v.* Bates (156 U. S., 577, p. 587):

"The power to regulate commerce among the several States is granted to Congress in terms as absolute as is the power to regulate commerce with foreign nations."

Says Judge Davis, in United States *v.* Forty-three Gallons of Whisky (3 Otto., 188):

"Congress now has the exclusive, the absolute power to regulate commerce with the Indian tribes, a power as broad and as free from restrictions as that to regulate commerce with foreign countries."

Mr. Hawley. Do these decisions, which you have quoted, have reference to the nature of the commerce going into interstate commerce?

Mr. Brinton. They are dicussions of the clause itself—of the meaning of the clause of the Constitution itself.

Mr. Hawley. What were the facts upon which the decisions were based? What was the nature of the cause pending in the court? Did it have reference to the condition or nature of the commerce, or did it have reference to its protection or its production?

Mr. Brinton. There was a great variety of cases.

Mr. Hawley. I would like to hear if you have any decisions on the questions that have been rendered by the Supreme Court involving questions where the production of the article, the conditions of its production, were involved as related to its shipment in interstate commerce.

Mr. Brinton. I am perfectly frank to say I do not think any case has been decided where the conditions of production of an article in the United States have been considered. To that extent there is a difference. I am frank to admit it. There is a difference, in fact, between this case and other cases that have gone before it.

To return to the question of the identity of the powers, the conclusions which I have stated as to the identity of the power to regulate foreign commerce, with the power to regulate commerce between the States is, of course, subject to be affected, in special instances, by other limitations and conditions outside of the question of the commerce clause. Such, for instance, would be the application of various provisions of the Constitution guaranteeing certain rights to the citizens of the States, and also the other provisions relative to the treaty-making power of Congress itself. For instance, also, Congress might exclude articles from one country but not from another; but might not exclude from interstate commerce articles from one State but not from another.

So far, however, as a particular object is sought to be secured solely through the exercise of the commerce power without reference to the various considerations here referred to, it is clear that the interpretation which has been followed under one phase of the subject is the construction which will be followed upon the other. As stated by Prof. Willoughby:

"It is believed, therefore, that so far as the grant contained in the commerce clause is concerned, no valid distinction between interstate and foreign commerce can be drawn.

Considering it in this light, we need not be surprised to find that there is nothing startling, nothing revolutionary, in the invoking of the commerce power of Congress to protect the industries of the Nation. Indeed, the protection of industry through the regulation of commerce was one of the most familiar illustrations of sovereign power in the minds of the framers of the Government.

The justification of the embargo acts under the commerce clause is perhaps the most conspicuous illustration of this principle.

The Chairman. Did these embargo acts ever come before the courts?

Mr. Brinton. Yes, sir; they did.

We have the authority of Marshall himself upon this point. Says he, in Gibbons *v.* Ogden (19 Wheat., 191, 192), in discussing the power of Congress under the commerce clause:

"The universally acknowledged power of the Government to impose embargoes must also be considered as showing that all America is united in that construction which comprehends navigation in the word commerce. Gentlemen have said, in argument, that this is a branch of the war-making power, and that an embargo is an instrument of war, not a regulation of trade. That it may be, and often is, used as an instrument of war, can not be denied, but not all embargoes are of this description. They are sometimes resorted to without a view to war, and with a single view to commerce. When Congress imposed that embargo which, far a time, engaged the attention of every man in the United States, the avowed object of the law was the protection of commerce and the avoiding of war."

To the same effect is the language of Mr. Justice Daniel, speaking for the Supreme Court in United States *v.* Mangold (9 How., 560, 566):

"Since the passage of the embargo and nonintercourse laws, and the repeated judicial sanctions those statutes have received, it can scarcely, in this day, be open to doubt that every subject falling within legitimate sphere of the commerce regulation may be partially or wholly excluded, when either measure shall be demanded by the safety or by the importance of the interests of the Nation."

So, too, Judge Davis, of the United States district for Massachusetts, in 1880, in the case of United States *v.* William (28 Fed. Cases, 614), in which he sustained the constitutionality of the recent embargo act:

"Further, the power to regulate commerce is not to be confined to the adoption of measures exclusively beneficial to commerce itself, or tending to its advancement, but in our national system, as in all modern sovereignties, it is also to be considered as an instrument for other purposes of general policy and interest."

So, too, the greatest of all commentators on the Constitution, Justice Joseph Story (vol. 2, p. 1060, ed. of 1833):

"Foreign and domestic intercourse has been universally understood to be within the national power. How, otherwise, could our theory of prohibition and nonintercourse be defended? From what other source has been derived the power of laying embargoes in a time of peace and without any reference to war or its operations? Yet this power has been universally admitted to be constitutional, even in times of the highest political excitement."

In Gibbons *v.* Ogden, in demonstrating that the power to regulate commerce included the regulation of vessels employed in transporting passengers, Judge Marshall emphasized his conclusions by pointing out that it was clearly recognized by the framers of the Constitution that the power to regulate included the power to prohibit, for the reason that they inserted an express exception to such power in the article forbidding Congress to prohibit the importation of slaves until 1808.

Says Judge Marshall:

"This section has always been considered as an exception from the power to regulate commerce, and so far as an exception from a power proves its existence, this section proves that the power to regulate commerce applies equally to the regulation of vessels employed in transporting men who pass from place to place voluntarily, and to those who pass involuntarily."

To these authorities as to the right to prohibit by direct embargo may be added, as the gentlemen are well aware, innumerable authorities and declarations by the founders of the Government, justifying the right of Congress to prohibit by prohibitory taxation, as justified under the commerce clause rather than under the taxing power.

Indeed, this distinction between the right to lay duties, prohibitory or otherwise, for the regulation of commerce, and the right of taxation per se, was at all times clear and distinct in the minds of the colonists themselves. Says Mr. Justice Marshall, in the case we have referred to (9 Wheat., 202):

"The right to regulate commerce even by the imposition of duties was not controverted, but the right to impose the duty for the purpose of revenue produced a war as important, perhaps, in its consequences as any the world has ever witnessed."

Or again, in his Life of Washington (vol. 2, p. 81, 1st ed.), speaking of the stamp act:

"The colonies had long been in the habit of submitting to duties laid upon their trade and had not generally distinguished between those which were imposed for the mere purpose of regulating commerce, and this, which being also designed to raise a revenue, was in truth to every purpose a real tax."

Said the sage Franklin, in his examination at the bar of the House of Commons in 1786 (Bigelow's life, Philadelphia, 1874, p. 479):

"I never heard any objection to the right of laying duties to regulate commerce, but a right to lay internal taxes was never supposed to be in Parliament, as we are not represented there."

In a letter to Secretary Jay, dated 1785, John Adams earnestly recommends that the States give to Congress full power to govern all external commerce:

"Whether prohibitory or high duties will be most politic is a grave question. (Vol. 8, Works of Adams, Little, Brown, 1853, pp. 2–3.)"

If the power is identical, if the power to regulate foreign commerce has been used and has been sustained in the case of embargoes, in the case of prohibitive legislation, it can certainly be sustained in the case of convict labor; and what is the inference we are to draw from that? Simply this: That the same moving considerations which have directed the action of Congress in regard to foreign commerce apply equally to the commerce between the States.

The power which was originally in these 13 sovereignties has been passed bodily into Congress. It has been exercised, as these decisions show, for these specific purposes, and there it rests to-day.

The CHAIRMAN. Would your case, do you think, differ in principle from a prohibitory limitation upon convict-made goods abroad? There Congress, expressing the national will, declares that its manufactories in the United States shall not be subjected to the competition of manufactories abroad employing convict labor because of its being cheaper and the competition resulting being unfair.

Mr. BRINTON. So far as the commerce clause is concerned, there is not a scintilla of a difference.

The CHAIRMAN. That argument could be made in Congress, as well as between manufacturing competitors in the United States, that those living under a restriction of 14 and 16 years should not be subject to competition with those who had no restrictions at all. Would this case be identical with the other, in your view?

Mr. BRINTON. That seems to me to be identical. If there is any reason against it, I would like to know it. We want to fortify your committee not only for this meeting, but for any future occasions when you may be called upon to defend this act. So far as the clause itself is concerned, there is absolutely no distinction until you come in conflict with some reserved right, under the fifth amendment, for instance, the effect of which I shall consider in a moment.

For at this point the very natural question arises as to what is the limit of application of the principle whose existence I am trying to support by this analogy. May the power to prohibit foreign commerce be exercised in an arbitrary manner by Congress without restraint of any kind? If so, must we not concede equal liberty in the matter of commerce between the States?

To this very proper inquiry my answer is that it has never yet been decided that Congress may arbitrarily and capriciously prohibit, under the commerce clause, either foreign or domestic commerce, and that for the purposes of our present inquiry it is not necessary to decide the point. As the Supreme Court wisely says in the Lottery case:

"The present case does not require the court to declare the full extent of the power that Congress may exercise in the regulation of commerce among the States."

It is a maxim of constitutional law never to cross your bridges till you come to them.

However, no case presenting such an arbitrary exclusion, not referable to a desire to protect the industries, or to some consideration analogous to the police powers of the State, has been presented to the Supreme Court. In Butterfield *v.* Stranahan (192 U. S., 470) the Supreme Court, in sustaining the right of Congress to prohibit the importation of inferior teas, reminds us that Congress has from the beginning exercised a plenary power in the exclusion of merchandise brought from foreign countries, both by embargoes and prohibitory tariffs, and has also "in other tariff legislation asserted a police power over foreign commerce by provisions which in and of themselves amounted to the assertion of the right to exclude merchandise at discretion," illustrating this statement by the laws regulating the degree of strength of drugs and chemicals entitled to admission to the United States.

So, too, in the case of United States *v.* 43 Gallons of Whisky (93 U. S., 194), in sustaining the right to prohibit the introductions of whisky into territory occupied by the Indians, the court said:

"This being true, it results that a certain statute which restrains the introduction of particular goods into the United States from considerations of public policy does not violate the due-process clause of the Constitution."

These cases, however, illustrate the furthest extent of the doctrine as passed upon by the Supreme Court, and it is to be noticed that in neither of these cases was an arbitrary exclusion asserted, but one which was based upon solid considerations of public policy, analogous to the police power of the States.

It may well be, therefore, that in both cases some special limitation will be applied, as is suggested by Prof. Willoughby in the following paragraph:

"The question as to the extent to which Congress is limited by the due process of law requirement when exercising the power granted it by the commerce clause is one not wholly free from difficulty, but this much at least is clear, that Congress may not, under the guise of an exercise of its commerce power, any more than it may under the guise of any of its other powers work a direct deprivation of a particular property right or a direct impairment of a specific contract right. From this it follows that, granting that an individual has a vested right to engage in interstate or foreign commerce, he can not be arbitrarily excluded therefrom, either as a shipper or carrier or importer, except in so far as such exclusion may fairly be held to be incidental to the regulation of such commerce."

This thought was thus expressed by Mr. Beck in his successful argument for the Government in the lottery case, as follows:

"The power to prohibit exists for any purpose referable to the legitimate objects of government, such as the preservation of health, the protection of morals, and the safety of life.

"It is not essential, however, for the Government to contend for an absolute power of prohibition, and it may well be that where a prohibition is not referable to some of the police powers of a sovereign State, or to the great aims for which all government is founded, and where, therefore, such prohibition is an undue trespass upon the liberties of the citizens, that the judicial department of the Government would have the power to declare such a law void. The Bill of Rights contained in the amendments to the Constitution may well prohibit many arbitrary and unwarranted prohibitions of trade between the States."

Mr. Beck's words find strong support in this later paragraph of Prof. Willoughby:

"In result, then, it is to be admitted that the lottery case is authority for the doctrine that interstate carriers may be prohibited from carrying or shippers or manufacturers from sending from State to State and to foreign countries commodities produced under conditions so objectionable as to be subject to control, as to their manufacture, by the States under an exercise of their police powers or of a character designed or appropriate for a use which might similarly be forbidden by law. Furthermore, the case is probably authority for the power of Congress to provide laws directed against manufacturers and shippers generally, rather than against the commodities produced or sold by them, and excluding them from interstate and foreign commerce so long as they fail to conform to conditions which, if imposed by State law, would be upheld as proper police measures."

If, then, you ask the hypothetical question, as they did of Mr. Beveridge, "Can Congress prohibit interstate transportation of articles made by any other than labor unions?" the answer is, "Is that a deprivation of property without due process of law? If it is, it can not be justified under this clause." I think the answer would probably be in this case that it would be a deprivation of property without due process of law, because the courts would hold it to have no reasonable reference to the protection of the industry, whereas here you protect children and wipe out child slavery, and that certainly has a direct relation to the protection of the industries of the country so far as they are concerned in interstate commerce.

Mr. BROWN. Did Senator Spooner take part in that Beveridge discussion?

Mr. BRINTON. Yes; he did. He asked some hypothetical questions of Mr. Beveridge that were rather troublesome.

Mr. ARTHUR HOLDER (legislative representative of the American Federation of Labor). If I may be permitted to make the suggestion, Senator Spooner was the gentleman who placed all those hypothetical questions in the discussion with Senator Beveridge as to whether, if such a law was to be even considered, the Senate would then be required to consider a convict-labor law, an 8-hour law, a union-labor law, etc. Senator Spooner was the principal opponent at that time of the proposition offered by Senator Beveridge.

Mr. BRINTON. At page 2157 of volume 4, No. 43, of the Congressional Record of the Fifty-ninth Congress, second session, February 4, 1907, occurred the following:

"Mr. SPOONER. Yes; that is right. Now, if Congress should come to the conclusion on the Senator's argument; that it affects the morals of the people, the labor of the people; that there should be an eight-hour labor day or that all labor should be combined into a labor union, and should therefore prohibit transportation from State to State of any commodity which is not the product of eight-hour labor or of union labor, does the Senator think——

"Mr. BEVERIDGE. Or that we could prohibit it altogether.

"Mr. SPOONER. Or prohibit it altogether.

"Mr. BEVERIDGE. What is the Senator's question?

"Mr. SPOONER. Can the court review the wisdom and discretion of Congress?

"Mr. **Beveridge**. I will answer that question upon the very best authority," etc.

He answered it by quoting Senator Spooner himself and in the affirmative. In every case he took the affirmative and went to the fullest extent, that Congress had unlimited arbitrary power, and that it was a matter of policy and not of power.

The interpretation suggested by Prof. Willoughby would at least fully meet the caution of the Supreme Court in the Lottery case, as laid down in the following language:

"It is said, however, that the principle that in order to suppress lotteries carried on through interstate commerce Congress may arbitrarily exclude from commerce among the States any article, commodity, or thing of whatever kind or nature or however useful or valuable which it may choose, no matter with what motive, to declare shall not be carried from one State to another. It will be time enough to consider the constitutionality of such legislation when we must do so. The present case does not require the court to declare the full extent of the power that Congress may exercise in the regulation of commerce among the States. We may, however, repeat in this connection what the court has heretofore said, that the power of Congress to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States.

"But, as often said, the possible abuse of a power is not an argument against its existence. There is probably no governmental power that may not be exerted to the injury of the public. If what is done by Congress is manifestly in excess of the powers granted to it, then upon the courts will rest the duty of adjudging that its action is neither legal nor binding upon the people. But if what Congress does is within the limits of its power and is simply unwise or injurious, the remedy is that suggested by Chief Justice Marshall in Gibbons *v.* Ogden, when he said:

"'The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections are in this as in many other instances, as that, for example, of declaring war, the sole restraints on which they have relied to secure them from its abuse. They are the restraints on which the people must often rely solely in all representative Governments.'"

On the other hand, it is to be noted that there is an alternative to this conclusion, adopted by high authority, to wit, that the power of Congress over both foreign and interstate commerce is absolute and arbitrary and that objections to any specific exercise of this power concern only its policy and not its power.

This is the view which was adopted and defended with rare courage and ability by Senator Beveridge in 1907 in a speech which none who heard it are likely to forget, and to which I have referred just a few moments ago in my argument.

It is a view which is also expressed by the late Mr. Edward B. Whitney, of New York, in an able discussion of the Lottery case, published in the Michigan Law Review in 1903 (vol. 1, No. 8, May, 1903). After presenting the facts of the decision, Mr. Whitney discusses its future application in this language:

"What is the true theory of this decision? Is the congressional power derived from the fact that the tickets are evil in themselves or deleterious in their effects? Is it to be followed only when the courts shall concur with Congress in considering any articles which may in future be prohibited to be similar evils or has Congress a general power to prohibit any article whatever which in its own unreviewable legislative discretion it may consider deleterious? Has Congress the power to exclude any and, therefore, every article from interstate commerce and thus put an end to interstate commerce altogether? I think that the latter is the true analysis and the true scope of the decision, although the conservative language of the court leaves the question to some extent open for further argument. The court found no implied power in Congress upon which the legislation could be based. Congress has no general police power. It has no power to supervise the morals of our citizens, to prevent crime, or to restrain extravagance. This lack of general police power and lack of general power to suppress lotteries is pointed out by dissenting justices; nor is it claimed by the majority of the court. The decision is squarely based upon one of the express powers of the Constitution—the power to regulate commerce. The dissenting justices maintain that this express power could not be invoked, because the power to regulate does not include the power to prohibit. The majority of the court, while not definitely committing themselves to the proposition that every prohibition is included within the power to regulate, maintains 'the proposition that regulation may take the form of prohibition' and that whenever the general public opinion of the Nation may have come to regard an article of commerce, however once approved and favored, as 'grown into disrepute' and offensive, so that commerce is considered both by the court and by Congress as polluted by the presence of that article, the removal of that pollution by exclusion of the article is within legislative authority. The next step forward the court declines to forecast. Statesmen, however, must attempt to forecast it, because they are confronted with the question whether Congress may deal with the problem of monopoly by exclusion of monopoly-made articles from transportation between the States.

"It seem it me that Congress will ultimately be held to have the power to exclude any article from interstate commerce, because the power to regulate (which has now been decided to include the power to prohibit) is one of the enumerated powers of the Government. There is a radical distinction between the enumerated and the nonenumerated or implied powers. Presumptively a power expressly granted by the Constitution is unlimited, unless limitations are implied from another section of the instrument."

As I have stated, it is wholly unnecessary to decide now which of these alternatives may be the correct one, for the reason that the present law falls well within each of them.

In passing, it is interesting to note the view of a very distinguished authority on constitutional law, Gov. Baldwin, of Connecticut, himself formerly, as you know, chief justice of his State and professor of constitutional law at Yale. While he does not support the policy of this legislation, it seems clear that he considers it well within the power of Congress to enact. In a recent presidential address before the American Academy of Political and Social Science he asks:

"Would it not again be an admissible regulation to provide that no goods should be the subject of interstate commerce until they had been inspected by Federal officers, or unless, as manufactured goods, they had been manufactured at an establishment conducted in a way approved by Federal authority? Long steps in these directions have indeed been already taken by the acts of Congress as to pure food and the inspection of packing houses. The Constitution of the United States is, in my opinion, flexible enough to bear a construction supporting legislation by Congress in such directions far in advance of anything hitherto attempted."

In conclusion, I submit that if it is true, as stated by the Supreme Court, that "the power of Congress over interstate commerce is as absolute as it is over foreign commerce," and that a prohibition on the importation of convict-made goods is a valid exercise, not of the taxing power but of the power to regulate commerce; if it is true that Congress has in its tariff acts prohibitory or otherwise avowedly had in mind the protection of the manufacturer and the artisan; if it is true that the power to regulate commerce, as stated by Justice Marshall, "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution"; and if it is true, as the Supreme Court says in the white-slave case, that "if the facility of interstate transportation can be taken away from the demoralization of lotteries, the debasement of obscene literature, the contagion of diseased cattle or persons, the impuriy of food and drugs," it can also be taken from "the enslavement in prostitution and debauchery of women, and, more insistently, of girls," why may it not equally be denied to a commerce which arises in and thrives upon conditions of child employment which Congress conceives to be a menace to the general welfare of the Nation?

Such legislation is not an attempt to impose a Federal standard upon the internal affairs of any State. It is merely a declaration that the channels of interstate commerce shall not be polluted by being used to support a condition of child slavery shocking to the moral sense of the representatives of all the people.

STATEMENT OF DR. WILLIAM D. LEWIS, DEAN OF THE LAW SCHOOL OF THE UNIVERSITY OF PENNSYLVANIA.

Mr. PALMER. I now have great pleasure, Mr. Chairman and gentlemen of the committee, in presenting Dr. William D. Lewis, dean of the law school of the University of Pennsylvania.

Dr. LEWIS. Mr. Chairman and gentlemen, the bill put in by Mr. Palmer and the bill put in by Representative Copley last July are national child-labor bills. They rest on the proposition that Congress has the power to exclude from interstate commerce any articles that are made in an establishment where conditions inimical to the life or the morals of the employees are permitted to exist.

In view of the decisions of the Supreme Court of the United States, I do not think there can be any reasonable doubt as to the power of Congress to pass this legislation. There have been two views of the power of Congress over interstate commerce. One is the view of Marshall, which he expressed in Gibbons *v.* Ogden, which was that power over interstate commerce in Congress was just as great as the power of the States over intrastate commerce. Of course the power of Congress must be exercised in view of the expressed limitations contained in the Constitution. He expressed that thought in the following sentence from Gibbons *v.* Ogden, which I do not think anyone here or elsewhere can improve upon:

"The power over commerce, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution."

And he adds:

"These limitations are expressed in plain terms. If, as has always been understood, the sovereignty of commerce, though limited to specific objects, is plenary as those objects, power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of power as are found in the Constitution of the United States."

This theory of Marshall can be illustrated by a simple example.

This bill, for instance, excludes from interstate commerce certain products. The question of its constitutionality under Marshall's view does not depend upon whether that exclusion is a regulation of commerce, because a power given to a sovereign to regulate must include as one of those regulations the power to exclude. The question, therefore, is not: Is it a regulation of commerce, but is it a regulation which violates any of the express limitations in the Constitution? Under Marshall's view there are only two existing provisions of the Constitution of the United States that may by any possibility be argued as restrictions on the power of Congress over interstate commerce.

One provision is the fifth amendment: "That no person shall be deprived of life, liberty, or property without due process of law." The other is the ninth amendment: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

It may be argued that an act of Congress which excluded from interstate commerce an article, where that act was not based on any express or apparent reason, would be arbitrary, and would violate either one or both of these amendments. It is not necessary here for you to decide whether such an act would or would not violate either of these amendments. But it is important for you to realize that under the Marshall view, the celebrated tenth amendment to the Constitution is not a restriction on the power of Congress over interstate commerce.

The tenth amendment to the Constitution reads:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

The power over commerce is delegated. Therefore, this tenth amendment does not apply. That is the Marshall view of the power over interstate commerce.

The other view is this, that the power over interstate commerce is not only limited by express limitations in the Constitution, but limited by the principle that it must be so exercised as not to indirectly regulate what Congress can not regulate directly; and the argument in favor of that view is the argument intimated in the opinion of ex-President Taft, which has been quoted to you, that to allow Congress to regulate indirectly what it can not regulate directly would in effect render nugatory this tenth amendment, which says that the powers not expressly conferred on Congress are reserved to the States.

The CHAIRMAN. In reference to the implied sections of other features of the Constitution, here is a manufacturer having a plant, a part of which is operated, let us say, ostensibly through the employment of child labor and part of which is not. Under this bill all rights of interstate commerce are taken away from the products of that plant. The limitation is not to such products as child labor may have produced, but all products of the manufacturer. When we were considering the illustration of convict-made goods abroad being excluded or embargoed, only the convict-made goods, the goods themselves that offended in their origin of production, were affected. Under this bill all products of the factory, whether offensively produced specifically or not, would be affected. Would that be a fair statement of the facts?

Dr. LEWIS. I understand the bill is so drawn. The only objection to drawing the bill in that way, under the Marshall view of the power of Congress, would be that in excluding products where no child labor was exploited in their production, the bill violated either the fifth or the ninth amendment. On the other hand, it could be argued as against that proposition that it was necessary to exclude all products of that manufacturing establishment in order to practically make efficient the administration of the bill, because it would be almost impossible to tell if part of the products were produced by nonexploited child labor and part were produced by exploited child labor; whether this particular product which had been shipped by the dealer was or was not produced by exploited child labor. The constitutional justification would be the impossibility of administering a bill differently drawn. I should therefore say that the bill as drawn is constitutional; but I would also suggest that if an administration can be devised which can separate the two classes of goods, you should confine your prohibition to those that are produced by exploited child labor.

If I have answered that question I should like, in continuing my general argument, to emphasize this fact: As between those two views which I have stated of the power of Congress over interstate commerce, it is hardly necessary for this committee or for the Congress to spend time to ascertain which is the best. because the decisions of the Supreme Court of the United States have made it entirely clear that that tribunal has adhered always, and especially lately—and if I may I would emphasize the words "especially lately"—to the Marshall view.

Congress passed an act to exclude from interstate commerce lottery tickets. The constitutionality of that act came before the Supreme Court of the United States in the lottery case. Each view that I have tried to make clear was ably presented to the court. The majority of the court, taking Marshall's view of the power, decided that the act was constitutional. The minority of the court taking the opposite view, thought that the act was unconstitutional. That decision was made in 1903. Every member of the court who was with the minority has passed away. In 1911 and in 1912 the constitutionality of the pure food and drugs act and the constitutionality of the white-slave or Mann Act came before the court; the first in the case of the Egg Co. against the United States, and the second, the Mann Act, in the case of Hoke against United States. In both of those cases—though it is only in the second, the Hoke case, that the constitutional question is argued—the court was presented with these two diverse views which have persisted practically ever since Marshall's day. In each case the constitutionality of the act before the court was sustained, not this time by a divided but by a unanimous court. In other words, every existing member of the Supreme Court of the United States has, in adhering to the opinion of the court in the case of Hoke *v.* United States, which supported the Mann Act, and especially in adhering without dissent to the language of Judge McKenna in that case, followed the Marshall view. At least as far as the Supreme Court of the United States is concerned this question is a closed question, and therefore those of you who feel that that is controlling, would regard any further argument as a work of supererogation.

There is, however, Mr. Chairman, one argument upon which I would like to lay some emphasis. The State has the right to exclude the importation of misbranded articles of commerce. That has been decided in the case of Plumley *v.* Massachusetts, in which the law of Massachusetts which prohibited the importation into the State of oleomargerine colored as butter, has been upheld in the Supreme Court of the United States. By analogy to that case, I think you all can see that the States would have the right to exclude poisonous drugs or adulterated foods. I think by analogy, also, we can say that the State would have the right to protect itself from the importation of lottery tickets. But lottery tickets, impure food, and poisonous drugs are what we may denominate as the outlaws of commerce. The Supreme Court of the United States has expressly stated that when an article is a common article of trade and commerce among men, and where it contains no contamination of other articles of commerce, as, for instance, liquor or oleomargarine, then the States can not prohibit the introduction of that article into the States. That was decided in the famous cases of Lisa *v.* Hardin, the liquor case, and Shellenberger *v.* Pennsylvania, the oleomargerine case.

If the State can not keep liquor from being imported, or if the State can not keep oleomargerine from being imported, it can not protect its manufacturers from the unfair competition of the manufacturers of other States, who, exploiting child labor in order to cheapen their products, import the product into the State which has these laws or where the manufacturers of the State refuse to stoop to such processes. It is unfair competition—and this is an economic fact, it seems to me, which lies at the basis of this whole constitutional argument—for a man in one State to exploit child labor for the purpose of cheapening the product. I agree entirely with other witnesses here, that the manufacturer in the long run is in error.

In the long run the ruining of the lives of children makes the product of the State more expensive, not less expensive; but the immediate effect of exploited child labor may be, and often is, to cheapen the product. And therefore I say that is unfair competition for the manufacturer in one State to exploit child labor for the purpose of cheapening his product and then send that product into another State for the purpose of underselling the manufacturers of that latter State. Furthermore, it would be an indictment against the wisdom of the framers of the Constitution of the United States to say that they drew a Constitution which deliberately takes from the States the right to protect their manufacturers from that unfair competition, and then failed to give that power of protection to the only other government that could protect—the Government of the United States. What better exercise of the power of Congress over interstate commerce than its exercise to prevent unfair competition?

I am aware, of course, that the argument has been made that there is a distinction between the food and drugs act, which prohibits the introduction into interstate commerce of poisonous drugs, and this act, which prohibits the introduction into interstate commerce of goods which are not in themselves poisonous. I would like to commend those who make this argument to the atest utterance of the Supreme Court of the United States in this very case of Hoe *v.* United States, which supported the Mann Act. The court said, speaking of the power of Congress:

"The power is direct. There is no word of limitation in it, and its broad and universal scope has been so often declared as to make repetition unnecessary, and, besides, it has so much illustration by cases that it would seem as if there could be no instance of its exercise that does not find an immediate example in some one of them."

We can expect that if you should pass this act the difference between a food and drugs act and the national child-labor bill would be emphasized. You will be told that one keeps out poisonous articles, and that this act keeps out an article which is not in itself poisonous. It is true that the acts are different. Their objects are different. One, the food and drugs act, is desired to protect the people of the States from poisonous and adulterated food. This act is to protect the manufacturers and producers who wish not to exploit child labor from being subjected to unfair competition of those who do, and when you have expressed the argument in that way you have shown that you have fulfilled in this act the only requisite which the Supreme Court of the United States will oblige you to fulfill, which is that the act you pass shall at least have an express or apparent purpose, which is perhaps not wise but in a broad view a reasonable purpose, and we can conclude that the power to protect from unfair competition in interstate trade is within the power of Congress or nothing is within that power.

That is all I wish to say upon the constitutional point.

The CHAIRMAN. In drafting this commerce clause they gave Congress the power to regulate interstate commerce without in that connection mentioning the States or purposes of such regulations. How would you define the object and purpose? Would you do it with reference to the general-welfare clause? If not, what definition would you refer to of the objects and purposes proper in the exercise of the clause?

Dr. LEWIS. In the exercise of the power, Congress has no limitation to its purposes. It can pass the law for any purpose. But when the act actually comes before the Supreme Court, the Supreme Court will probably take the position that that purpose must not be a purely arbitrary one, or the fifth amendment, or the ninth amendment, to which I have referred, may prevent it. You are entirely right in saying that the only definition contained in the Constitution, or, rather, in the preamble—it is not in the Constitution, but in the preamble—is the one definition of the purpose which must be before Congress. The purpose is the welfare of the people of the United States.

Mr. PALMER. May I ask a question now, Mr. Chairman?

The CHAIRMAN. Yes, Mr. Palmer.

Mr. PALMER. Dr. Lewis, will you go so far as Prof. Willoughby, in his recent address, in which he practically lays down as the law, in view of the recent decision of the Supreme Court, that the Congress, under its power to regulate interstate commerce, may go so far as to exclude from interstate commerce all commodities which are produced under conditions so intolerable and offensive to the moral sense of the community, or so violently against the interests of the people, as to properly call for the exercise of the police power of the State in the regulation of their production?

Dr. LEWIS. I should, sir; for the reason that all such production is, from an economic point of view, essentially unfair when the producer or the person who buys the product again sells that product in interstate commerce.

Mr. PALMER. Of course, if that is a correct statement of the law, it closes the case, so far as this bill is concerned.

Dr. LEWIS. Yes, sir; that closes the case.

Mr. PALMER. And does it not also cover the question which was raised by the chairman earlier in your argument, as to whether this bill should provide against the shipments in interstate commerce of the products of the factory where child labor exists or the products in which child labor is employed to produce, because it is the intolerable under which production occurs which may be aimed at by the exercise of the police power in the State, is it not?

Dr. LEWIS. I think I can answer that in this way, that there is an undoubted power under the decisions of the Supreme Court to keep out of interstate shipments all products of manufacture where child labor or other labor is exploited, even though some of the products kept out may not be due to that exploited child labor, provided you can show to the court that there is a good reason for keeping out all the products, or the act will fail from an administrative point of view.

The CHAIRMAN. Do you think of an actual case of that sort? I am not as familiar with the pure-food act in its operations as our friend from Philadelphia; but is it not a fact that in that case nonoffensive meats and foods are excluded, as well as offensive meats and foods, unless certain positive acts of qualification are taken by the original shipper?

Dr. LEWIS. With the correction of Dr. Brinton, who is much more familiar with the details of that act, that is my understanding of it.

Mr. BRINTON. I think that is true, as you have stated it.

The CHAIRMAN. What does the shipper have to do in taking meat, for example, from one State to another, Mr. Brinton?

Mr. BRINTON. That comes under a very similar act—the meat-inspection act. The food and drugs act has not been held to refer to meat products. Under the meat-inspection act there are, as you say, certain definite requirements in regard to the stamping of the meat demanded, which is not true in the same way under the food and drugs act; and still it is true, too, because they have to mark the percentage of alcohol in some cases, certain dangerous products have to be marked by name on the package, such as cocaine, etc. There are certain definite, positive acts that have to be performed in both cases.

The CHAIRMAN. Still, in this case, Dr. Lewis, the State itself provides the means by which the manufacturer of articles protected under either clause of the Constitution can be distinguished from articles which would not be protected in violation of this bill.

Dr. LEWIS. I am sorry, sir; but I did not quite understand your question.

The CHAIRMAN. Let us suppose half of the products of a factory not engaging child labor offensively were protected by this other constitutional provision, the fifth amendment; that the other half of the products, made by exploited child labor, was not protected by the fifth amendment, but came under the invalidation of this bill. Ought there to be some means by which the manufacturer could distinguish, giving him the right to ship the valid as distinguished from the invalid? All these questions are going to arise in the history of this subject, here in the committee probably, and later in the House and in the Senate. I think it well that we should have the benefit of your trained views upon the different difficulties which may be presented.

Dr. LEWIS. Instead, in making my answer to that question, I think, with your permission, I would like to make one statement in regard to what I believe to be the administrative problem which confronts you in this bill, should you decide to recommend it, and in doing that I think I will be able to make more clear my answer to the particular question which you have raised.

Mr. PALMER. Before you go to that, Dr. Lewis, is it necessary, in order to defend the language of this bill, to rely upon the administrative difficulty alone, as you have suggested? In other words, does not the exploitation of child labor in a mill, for instance, to the extent of 50 per cent of its products create an atmosphere, if you please, which deadens the moral sense of the community and lowers the moral tone of the community, sufficiently injures the physical and moral fiber of the rising generation, to call for the exercise of the police power of the State in its regulation; and if that be so, could not the police power attend to such regulation of the entire production, whether child labor was used in it or not? And if so, again—and the Willoughby proposition is correct—would not this be carried along by regulation, by prohibition from interstate commerce? Do you get my thought?

Dr. LEWIS. I believe I do get the thought contained in the question, and I think the question puts the point of view which would sustain this bill, even though one child was employed in a very large establishment and the entire production was thereby excluded.

Mr. PALMER. Of course, that is supposing a very strong case.

Dr. LEWIS. At the same time, I do have and would like to emphasize the feeling that the actual wording of the bill might at least avoid the criticism which has been suggested if it is confined to the products in which child labor has been exploited. On the other hand, I am alive to the fact that that may make the administration of the bill exceedingly difficult; and my opinion as to the constitutionality of the bill as drawn—believing that as drawn it is constitutional—is based on the fact that I do doubt whether any bill which merely prohibits the products of an establishment where the child labor has been exploited in a particular product and not the rest of the products of the establishment can be administered in a practical manner.

The CHAIRMAN. Let me give you a fanciful case along that line.

Dr. LEWIS. May I complete my thought in this connection, Mr. Chairman?

The CHAIRMAN. Certainly, Dr. Lewis.

Dr. LEWIS. You must remember, Mr. Chairman, that under the fifth amendment, having the indefinite words "due process of law," the members of your Supreme Court are in the position of asking themselves as reasonable men, "Is this act extraordinarily arbitrary?" If it so strikes them, they will apply the fifth amendment. Therefore, in drawing this or any other legislation, you have got to be careful, if you can by any possibility avoid it, not to have any provision which my be used in argument before the Supreme Court as an instance of arbitrary action.

The CHAIRMAN. I was thinking of that in this connection. Suppose this bill is passed. In some States you find a factory which engages in interstate commerce, and in the manufacture of their products they employ child labor offensively under the bill. You get an indictment on which two facts are stated. First, that they did employ child labor offensively; second, that they shipped the product in interstate commerce. That is an indictment good under the bill. The defendant enters court and admits he employed child labor, but denies that the product of that child labor went into interstate commerce, but, as a matter of fact, it was sold in intrastate commerce. The quesion then would be whether the product not offensively originating, that went into interstate commerce under those circumstances, could be prohibited; whether the plea I have outlined would not put the defendant under the fifth amendment; and if there be grave danger as to that, whether there is not some other supplementary provision possible to protect this bill from that possible weakness.

Dr. LEWIS. I think, Mr. Chairman, I probably have sufficiently stated that my opinion as to the advisability of making such a provision in the bill for the purpose of avoiding any constitutional objection depends very largely upon a fact which is beyond my experience, to wit, whether such a provision would be practicable; and I think that if you would ask Mr. Lovejoy or others here, who have had long experience in the enforcement of State child-labor laws, they might be able to throw some light on that question. Personally, if I were in your position, I would follow very largely their opinion as to the practicability of making such a distinction.

The CHAIRMAN. Why could we not require them to put a certificate on this product when they ship it that it had not been produced by child labor?

Dr. LEWIS. May I now, instead of answering that question, go on with what I regard an administrative problem?

The CHAIRMAN. Yes; proceed.

Dr. LEWIS. The bill introduced by Mr. Palmer provides certain standards for child labor. If these standards are violated in any establishment, then the person who ships in interstate commerce those articles, be he the manufacturer or the dealer, is liable, and liable to the possibility of a jail sentence. In the bill as drawn it is not clear in my mind whether, in order to convict a manufacturer or dealer under those provisions, you would have to show that he knew of the violation. I assume that the courts would hold, it being a penal statute, that you would have to prove knowledge; but I am not absolutely certain about it. Supposing the courts hold that you have to prove knowledge, it is obvious that that would render the bill impossible of efficient enforcement. The manufacturer usually knows whether he is violating the child-labor law, but the dealer in goods has no such knowledge, and it is the dealer that either can be made the shipper in every case or practically is the shipper in a large number of cases.

If, on the other hand, you say that this bill does not mean—and you can make it, of course, express that it shall not mean—that knowledge of the violation must be proved, then the bill as it sands imposes liability on the dealer with no way of protecting himself, even though he use ordinary care or even extraordinary care, from prosecution. That result would make your bill exceedingly oppressive to commerce.

In that dilemma—which we have confronting us, whether we are going to put knowledge or lack of knowledge as a requisite for a successful prosecution—you have the crux of the administrative problem in the national child-labor bill. It is not a mere problem of detail. You have got to solve it before you can conscientiously put through a national child-labor bill. The problem has to be solved. Personally I have seen two solutions of the difficulty, either of which is entirely practical.

One of the solutions is that which is contained in the bill drawn by the gentleman who spoke immediately before me, Mr. Brinton, which, as he indicates, follows in its administrative features the national food and drugs act, by placing the liability on anyone who ships in interstate commerce goods produced contrary to the standards, which expressly provides that knowledge shall not be necessary to be proved, and yet enables the shipper to protect himself by securing a guaranty from the producer. That is, so far as I can see, a line of solution of that difficulty which would render the bill entirely practical. The other solution——

Mr. PALMER (interposing). Dr. Lewis, may I interrupt to ask a question?

Dr. LEWIS. Yes.

Mr. PALMER. Could not that guaranty system be provided for by regulations made by this board?

Dr. LEWIS. Yes; certainly. These regulations would involve a question which the chairman last asked me, the question of permitting the manufacturer to brand his goods as not produced under child labor.

The CHAIRMAN. Make it a necessary qualification for shipment?

Mr. PALMER. That would not be necessary under the guaranty.

Dr. LEWIS. That would be perfectly possible, whether desirable or not. Mr. Brinton's bill does not do that, and I should doubt whether it would be desirable.

The CHAIRMAN. I have, perhaps, suggested this question before, but I think I can suggest it now. Would an indictment under this bill, and the constitutional principles you have elucidated here, be a valid indictment if it did not allege that the article shipped in interstate commerce was produced by child labor?

Dr. LEWIS. It would be valid under the bill if you did not so allege. Whether the act would be constitutional or not, we come back to the old question of whether such a provision is a purely arbitrary provision or whether it has a substantial reason.

Again, Mr. Chairman, I point to the fact that I personally would be swayed very largely by the experience of those who have had the enforcement of child-labor laws to ascertain whether it was necessary or not to include all the products of the mill.

Mr. PALMER. The question is whether we shall exclude the child-labor product or the product of a child-labor mill.

Dr. LEWIS. That is the question. The question is whether it is an arbitrary thing to exclude the product of the child-labor mill. Personally, my inclination—and I have not the slightest hesitation to give it to you—is that the bill is constitutional as it stands; but I would, before passing a professional opinion on that, have to know something more in regard to the impracticability of making the distinction.

Mr. PALMER. You also think, Dr. Lewis, that the suggestion from Mr. Brinton in his bill could be covered by rules and regulations provided for under this bill, do you not?

Dr. LEWIS. No. I should be afraid of that, Mr. Palmer.

Mr. PALMER. I thought I so understood you.

Dr. LEWIS. Indeed, the administrative problem which I have suggested, to my mind, is so important that I believe you should examine all well-thought-out possible solutions of it. Mr. Brinton's is one of them. I have had the pleasure of reading it, and, as I stated, so far as I can see, it is practical. It does involve quite extensive amendment of the bill as introduced; but if you have, as I hope you have, a reasonable prospect of passing this bill, nobody wants to pass it and then find it ineffective. This administration feature is a very important feature.

Mr. PALMER. I agree entirely with you about the Brinton proposition, but I was not born yesterday in this legislative work. I have discovered that we can make better progress by taking short steps at the beginning, and that too complicated and involved measures are apt to scare people away from a support thereof, and we may have to do some of these things Mr. Brinton has suggested at a later time.

Dr. LEWIS. I sympathize entirely with the thought that it is desirable to get the bill into as short space as possible. I stated that I had known of two possible solutions of the administration difficulty. The other solution is that embodied in the bill which was introduced by Representative Copley last July and which has been indorsed by the members of the Progressive Party who are Members of Congress, and therefore in that sense it is a party measure. In that bill the administration difficulty presented is solved in this way:

The liability for the shipment is not only placed upon the manufacturers who ships or the dealer who ships, but also upon the common carrier. Everybody but the manufacturer, however, can protect himself by insisting, before shipping the goods, that the manufacturer shall have registered his goods under the act. Any manufacturer or producer of an article has a right to register the goods under the act by merely filing an affidavit with the Secretary of Labor to the effect that he employs no child labor contrary to the act. Upon the filing of that affidavit he receives from the Secretary of Labor a certificate to the effect that his goods are registered; and that certificate or a copy of it can be placed on each item of his goods. Under that system the whole administration of the bill, so far as prosecutions under it are concerned, would be prosecutions against manufacturers and other producers for making false affidavits.

The CHAIRMAN. Is there any such provision in the bill now?

Dr. LEWIS. That is in the Copley bill, which is not before this committee; but that bill is H. R. 6146, which has gone to the other committee. I mention it here merely as showing another method of solving what Mr. Brinton has tried to solve—this by no means inconsiderable administration difficulty. If the Copley bill has any advantages over the bill suggested by Mr. Brinton, from an administration point of view, it lies in this fact, that its administration is greatly simplified by giving to the Secretary of Labor the duty to investigate whether the laws of a particular State, in their enactment and enforcement, substantially prevents child labor contrary to the standards expressed in the bill. If the States do prevent child labor contrary to the standards expressed in the bill, then any goods produced in that State are not subject to the provisions of the bill. This provision is made workable by confining the prohibitions contained in the bill to the initial shipment. Only the initial shipment in interstate commerce is prohibited. As a large number of States already have provisions comparable with this bill as introduced, of course, in those States, under the Copley bill, there would be no machinery of administration at all.

Now, to some that may seem to be an advantage, and then it might not be. I merely mention it to show that there have been two solutions offered for the very serious administrative difficulties connected with the national child-labor bill, and both of those should be considered by you if you desire to report the bill introduced by Mr. Palmer affirmatively.

There is one other provision of the Copley bill that I should like to refer to, Mr. Chairman, with your permission.

The CHAIRMAN. Certainly, sir; that is what we want; we desire to learn all that we can on this subject.

Dr. LEWIS. It is this: The bill introduced by Mr. Palmer excludes children between the ages of 14 and 16 years from two kinds of dangerous employment, one is the employment in mines, and the other in quarries. The bill introduced by Mr. Copley prevents a child under 16 years of age from being employed not only in those two dangerous employments but also in coke ovens and in establishments where poisonous acids, gases, or dyes are manufactured or packed for shipment. In other words, it covers what has been discovered by the national child-labor organization to be dangerous occupations; and then it also contains what I believe, from an administrative point of view, is a clause of infinite value. It is this: "Or in any establishment wherein the work done or materials or equipment handled are dangerous to life and limb or injuriouus to the health or morals of such child."

Now, that means that you not only exclude child labor from two or three dangerous occupations, but you lay down in the bill the general principle that labor apt to be dangerous or injurious to the health or morals of children between the ages of 14 and 16 years is excluded, and you leave to the administrative officer—in this bill the Secretary of Labor, or any other administrative officer you may choose—the right to designate from time to time, after investigation, what are dangerous employments.

I believe that in all this class of legislation we are wrong when we try to have the legislation itself specific in designating certain definite employments. The thing that can be done practically by a legislature is to express the general principle that no child under the age of 14 years shall be employed; that children between the ages of 14 and 16 years can not be employed in occupations which are particularly dangerous to such children, and then to leave to the administrative officers the determination of whether a particular employment is or is not a dangerous one. Only in that way, I believe, will you be able to effectually exclude children from dangerous employments.

The CHAIRMAN. I quite agree with you in that.

Dr. LEWIS. And as to the constitutionality of the proposed law: I have heard objections raised to this administrative provision on constitutional grounds. On that all I desire to say is this: In your interstate commerce act you have given the commission the right to determine whether or not a rate is fair, and if you can do that you can give to the commission or to the proper administrative officer the right to determine whether a particular employment is actually dangerous to a child, and if it is dangerous to exclude the child therefrom.

The CHAIRMAN. I think that in England and on the Continent in general their legislatures have passed declarations of principle, leaving to administrative officers or other tribunals the regulations definitive of the application of that principle from time to time. It is certainly so in Italy, and also in France.

Dr. LEWIS. I think the principle is a good one, Mr. Chairman. It can be carried too far, but I think it is not carried too far in the bill which has been introduced by Mr. Copley.

Mr. WALSH. Doctor, aside from the constitutionality or practicability of the law in the event it is passed, in drawing a line of distinction between the child labor product and the product of the mill in which child labor is employed, do you think it is fair and equitable to exclude the product of child-labor mill from shipment in interstate commerce?

Dr. LEWIS. I do; I think that where a man violates his obligation not to use his wealth for the purpose of exploiting others he renders himself a producer whose products should be excluded from interstate commerce.

Mr. WALSH. And you think the result would be that wherever he had children in his employ he would soon get them out?

Dr. LEWIS. I think so; that is my personal opinion.

Mr. WALSH. That would, no doubt, be the result.

The CHAIRMAN. We thank you very much, Doctor, for the information you have given us.

STATEMENT OF MR. A. J. McKELWAY, SECRETARY FOR SOUTHERN STATES, NATIONAL CHILD LABOR COMMITTEE.

Mr. McKELWAY. I am not a lawyer, Mr. Chairman; I have written a good many laws, and I suppose I might be called a "cornfield" lawyer; but I have a historical argument here on this question, as to the constitutionality of the law. It may not appeal to the legal mind, but it seems to me to be logical.

It was because of difficulties between Maryland and Virginia over commercial relations that a commission met at Mount Vernon, the home of Washington, during the Confederation and before the Constitution was made, to discuss these difficulties. Out of that grew the Annapolis convention, and out of that grew the Constitutional Convention.

The CHAIRMAN. What were these difficulties?

Mr. McKELWAY. A dispute between Maryland and Virginia as to inland navigation.

The CHAIRMAN. About the right to the use of the streams?

Mr. McKELWAY. Yes, sir.

If I have read the history of Virginia correctly she had the power in those days to prohibit the importation of any kind of goods from Maryland, convict-made goods or child-made goods.

The CHAIRMAN. And she simply shifted that right to the Congress of the United States.

Mr. McKELWAY. Yes, sir; Virginia hasn't the power now, but I think it was simply transferred in its entirety to the United States Government, under the interstate-commerce clause of the Constitution.

It has now been nearly 10 years since I began to represent, as one of its secretaries, the work of the National Child Labor Committee, which was organized 10 years ago this spring. I have been with the committee since it began active work. The field assigned me was the territory of the Southern States, and I have been in every one of these States from Maryland to Arizona in the interest of child-labor legislation, and before all the legislatures of these States except two. I am also fairly familiar with the general work of the National Child Labor Committee in other sections of the country, having kept in as close touch with the latter field as was possible for a worker in a particular section. I suppose I may say for myself also that I have been reasonably successful in this work. Every one of these Southern States has either passed an original child-labor law or has amended a law in some parts in the right direction during this decade. But none of these Southern States east of the Mississippi has as yet reached the standard which the American Bar Association, for example, has set as a proper standard for the regulation of child labor. Four or five of them are considerably below such a standard of legislation, one of them allowing 10-year-old children to be employed in factories 11 hours a day, and in none of them are the laws adequately enforced, partly through lack of appropriation, through the inefficiency of State labor bureaus, and because in some States there is no factory inspection, and there has never been prosecution for a violation of the law. So, while we are working for a better standard of legislation in some of these States, we are met with the stern fact that conditions have but little improved since the National Child Labor Committee was formed, and what is true in the South is true in somewhat lesser degree in the States of the North, East, and West, where by far the greater number of toiling children are to be found because of their greater industrial expansion.

Now, the obstacle we have met everywhere in America in the attempt to raise the standard of protection of working children to the proper standard and to enforce the law has been the argument that a State adopting such a standard and rigorously enforcing its laws is placed at a disdvantage through the competition of similar industrial establishments in other States, especially bordering States. The good State is, as it were, penalized for passing a good law because of the failure of the low-standard State to enact similar legislation. I do not hold that this argument will be true in the long run. I hold that child labor in itself is an economic error, and not only for the welfare of its citizenship should a State abolish child labor, not only for the diminishing of poverty and resulting degeneracy, illiteracy, and crime, but for the sake of the industrial establishments themselves. The cheap labor of little children is not an economic advantage. But the American manufacturer rarely looks beyond the profits of this year, or the next year at the farthest. I can give many examples of this argument of the manufacturers of any State against raising the standard for that particular State until some other State reaches the same standard.

For example, we have a 10-hour day in Virginia for children under 16 and for women. Through acts of Congress we have an 8-hour day in the District of Columbia for children under 16 and for women. But Virginia competes, especially in the cotton-mill industry, with North Carolina, and it happens that the largest cotton mills in the State are located in Danville, near the border. An almost equally large cotton-mill community is at Spray, N. C., near the Virginia border, and not far from Danville. Now, the Virginia manufacturers complained when we succeeded in raising the age limit for children employed in factories to 14 years, and the cotton-mill families of Danville employers simply packed up and went across the border and were employed in Spray or in Greensboro, where they were able to work the younger members of their families. The enforcement of the Virginia child-labor law raises the same objection, because North Carolina has not provided any means of enforcement, except through sporadic efforts of school superintendents, and that law only became effective the 1st of January.

For the same reason the Virginia manufacturers resist the reduction of the hours for children to 8 a day, which has become the standard in our great industrial States, on the ground that they are put at a disadvantage in competition with the North Carolina manufacturers, so close to them, who can employ such children and even younger children 11 hours a day. Trainloads of cotton-mill employees have been shipped from Tennessee, with a fairly good child-labor law, into North Carolina and Georgia, on the border, on account of the inducements offered by cotton-mill employers and where they can work their younger children also.

The cotton manufacturers in Mississippi have been recently attempting to secure the repeal of the Mississippi law providing an 8-hour day for children under 16 on the ground that they could not meet the competition of the Alabama employers with an 11-hour day for children.

The Tennessee manufacturers and the Texas manufacturers have told me that they favored a Federal law regulating child labor in order to equalize competition, and it seems so manifestly a matter for National instead of State regulation, because of the fact of commercial competition between the States—the very business Congress has a right to regulate when goods are shipped across State lines.

The same arguments have been made by the glass manufacturers of Pennsylvania, who still hold onto boys between 14 and 16 for all-night work in the glass factories; by the manufacturers of West Virginia, by the New England States engaged in the cotton industry, one after another, unless all the States in that group could unite in a measure of reform.

I suppose there has rarely been a case when an effective child-labor law has been presented to the legislature of a State in which the employers of child labor did not cite the laws of bordering States as the reason why a bill before their own legislature should not pass, and I think I am within bounds in stating that the whole general movement for the reform of child-labor conditions, to result in the abolition of child labor, as we hope, has been held back a score of years by this argument of the competition between States. And I think I may say that if anyone knows what he is talking about with regard to the difficulty of securing adequate protection for the children through State legislation, I am the one who is competent to testify.

As to the effectiveness of a Federal law, once it has been put upon the statute books, and, perhaps, runs the gauntlet of the courts—of this I have no sort of doubt. Of all laws, a child-labor law is one of the most difficult laws to enforce through the verdict of a jury of the vicinage. It would be difficult, for example, to get the jury in a cotton-mill county, upon which there would, in all probability, be some loafing father who wished to employ his own children, to convict either a parent or an employer of a violation of the child-labor law.

I can tell you of an interesting example of this down at Danville, Va. As I have said, they have a better law in Virginia than they have in North Carolina, and Virginia has a State factory inspector who has been very diligent in the performance of his duties. He found 85 violations of the child-labor law in the plants in Danville of the American Tobacco Co. and in cotton mills in Danville. He took a minister with him who had worked in some of the mills in North Carolina, and he found a great many who had gone over there to the Danville mills from North Carolina. He found evidence of the violation of the law in 85 cases, and got affidavits from school-teachers as to the ages of the children, and took these cases before the grand jury in Danville. But the foreman of the grand jury was a brother-in-law of the largest stockholder in the Danville Cotton Mills; the manager of the American Tobacco Co. was a member of the grand jury; the superintendent of the cotton mills was another member; two others were large stockholders in two other mills, and four of their bookkeepers were also members of the grand jury. So there were 9 out of the 12. They threw out all except three of the cases, and the inspector took these three cases before the mayor of the town, who is the judge in such cases down there. It was rather amusing to find that the evidence the parents of the children had filed with the factory in one case showed that the three children were 14 years of age, yet there had been no twins or triplets in that family. I have the record, which shows that it was stated by the parents that these children were born, the first on March 3, the second on October 9, and the third on April 16, all within 13 months. The mayor heard these cases and pronounced the men guilty, but said he knew they would be good the next time, and dismissed the cases.

Federal juries and grand juries, however, are drawn from all districts, sometimes comprising a whole State, and it is a matter of common knowledge that the Federal laws are very much better observed where they can be enforced at all than the State laws have been, even where there is the most effective method of inspection and enforcement. Take the liquor laws for example. It has been a matter of common knowledge in States where prohibition laws have been enacted that in the communities in those States not in sympathy with the purpose of the law it has been impossible to convict men who have openly violated the law, but the same men have been careful to take out a United States license for the purpose of violating a State law. I suppose the Webb law relating to the transportation of liquor will measurably end this abuse. I have no doubt that there are many sections of large States in which the distilling of whisky would be carried on to-day without molestation by the juries of the neighborhood, though in violation of the State laws, if Uncle Sam had not adopted a law making illicit distilling of liquor a crime. It is true there are violations of this law, but, considering the opportunities and the profits of this business, the number of persons in the Atlanta Penitentiary convicted of this crime are comparatively few because of the determined efforts of the Federal Government to convict violators, and the crime has become rare, even in the most inaccessible mountain regions. When the time comes that a man who sees a child working under age in a factory can write a postal to the Department of Justice and complain of the violation of the law, with the result that the inspector can be sent to determine the fact, and the employer can be arraigned before a Federal court for violating the law, there will be small need of Federal inspectors, and the danger of employing children illegally will become so great as to overbalance their profits from the cheaper labor.

Mr. Lovejoy has already filed a table showing what States have the 14-year-old limit and which prohibit child labor at night. That statement has been brought right up to date. But I would like to file a few extracts from the Federal reports on the condition of child and woman wage earners in this country which show the violations of the law up to the year 1908—how universally the State laws have been violated.

The CHAIRMAN. It would be a very profitable piece of information to add.

Mr. McKELWAY. These reports sum up the results of some three score agents, who were employed to investigate conditions and secure facts regarding the employment of women and children. They reported these violations of law in the cotton-mill industry alone:

"[From the Report on Condition of Woman and Child Wage Earners in the United States, Volume 1, Cotton Textile Industry. Prepared under the direction of the Commissioner of Labor. Senate Document No. 645.]

"Page 147: As is indicated by this table, 46 establishments were investigated in New England, 15 of which, or 34.8 per cent, employed children under the legal age. These establishments employed 1,711 children under 16 years of age, and of these 120, or 7 per cent, were under the legal age, 14 years. These 120 employees, of whom 58 were boys and 62 were girls, constituted thirty-six one-hundredths of 1 per cent of all employees in these establishments.

"Page 150: As indicated by the foregoing table, every establishment visited in Maine employed one or more children under 14 years, the legal age. In one establishment (No. 1) which employed only 34 children under 16, there were

15 children, or 44.1 per cent, under 14 years. This was 6.73 per cent of all employees in the establishment. Two of these children were only 10 years old and 6 were only 11. In another mill (No. 5) 14 out of 66 children, or 21.2 per cent, were under 14. In the 7 mills visited in the State there were 497 children employed. Of these, 64, or 12.9 per cent, were under 14 years of age. The names of 55 of these were found on the pay rolls, and the names of 9 were not on the pay rolls. Two of these children were 10 years old, 10 were 11, 11 were 12, and 41 were 13 years old.

" In New Hampshire children under 14 were found employed in 3 of the 7 mills visited. One of these, employing 5 such children, was investigated when school was not in session, and, as the children were not under 12, such employment was legal. The other 2 mills employed 5 children under the legal age. Three of these children were 13 and two were 11 years old.

" It is reported that children under the legal age are undobtedly employed in some of the mills of New Hampshire during vacation, and that children slightly under 14 begin work during vacation and continue work illegally after school begins until they reach the age of 14, when they obtain the certificate required by law. As this investigation was not made in the fall of the year, the truth of the latter assertion could not be determined.

" In the 22 mills visited in Massachusetts, employing a total of 605 children, only one child was found to be under 14 years, the legal age. This child had on file an age and schooling certificate giving her age as 14, so that the violation of the law can not be charged against the employer. The birth records of the city, however, showed the child to be 13, and her certificate was therefore issued by the school committee without proper proof of age.

" In a few other localities some of the foreign-born children appeared to be under 14 years of age, but whether or not they really were was not substantiated by positive proof. These children were provided with the requisite age and schooling certificates, which indicates that the evidence of age which they produced had been considered sufficient by the official who was authorized to issue such certificates.

" In Rhode Island 5 of the 10 establishments visited employed children under 14 years, the legal age. Of a total of 338 children under 16 employed by these 5 establishments, 50, or 14.8 per cent, were under 14 years of age. This was 1.27 per cent of all employees in these 5 establishments. Of these 50 children, 33 were employed in 1 establishment, where they constituted 28.9 per cent of the children and 2.93 per cent of all employees. In 2 other establishments over 1 per cent of all employees were under the legal age. In one of these establishments 4 out of 24 children, and in the other 7 out of 76, were under the legal age. The names of 36 children under the legal age were carried on the pay rolls, but the names of 14, employed in 4 different establishments, were omitted therefrom. Two of the children were 11 years old, 7 were 12, and 41 were reported as 13 years of age.

" Page 186: The most extensive violation of the age-limit law was found in South Carolina. In addition to 42 children under 12 years of age who were orphans, children of widows, etc., and who were therefore legally employed, 405 other children under 12 years were found working in the establishments investigated in that State. As shown by the table on page 171, such children constituted 12.3 per cent of the total children employed in the 36 establishments investigated and 2.8 per cent of the total number of employees. Children under the age of 12 years were employed in 34 of the 36 establishments investigated in the State, and in 33, or 91.7 per cent, of these 36 establishments less than 1 per cent of the employees were children under the legal age and not legally excepted from the provisions of the law. In 20 establishments between 1 and 5 per cent were thus illegally employed. In 3 establishments between 5 and 10 per cent and in 3 others over 10 per cent of all employees were children under 12 years of age who were not legally excepted from the provisions of the law.

" In North Carolina the law was only slightly less flagrantly violated. Of the 59 establishments canvassed 44, or 74.6 per cent, were found to employ children under the legal age. In 13 of these establishments less than 1 per cent of the employees were children under 12 years of age, in 19 establishments from 1 to 5 per cent, and in 11 establishments between 5 and 10 per cent. In 1 establishment in North Carolina (No. 44) 12.05 per cent of all employees—a higher percentage than in any other cotton mill investigated in the South, outside of Mississippi, which had no child-labor law—were under 12 years of age. In the 44 establishments illegally employing children a total of 1,751 children were employed, 202 of whom, or 11.5 per cent, were under the legal age. These constituted 8.6 per cent of all the children in the mills investigated in North Carolina, 2.61 per cent of all employees in the establishments illegally employing children, and 1.77 per cent of all the employees at work in all establishments investigated in the State.

"In Georgia 20 of the 31 establishments investigated, or 64.5 per cent, employed children under the legal age. Two other establishments employed children under 12, but all were employed under legal exceptions. A total of 107 children under 12 years of age were found at work and of these 41 were under legal exceptions; the remaining 66 were illegally employed. These 66 constituted 5.8 per cent of the children and 1.05 per cent of all employees in the 20 mills illegally employing children. Of all the children employed in the mills investigated in the State these 66 children constituted 3.6 per cent, and of all employees in these mills 0.58 per cent. This is a much lower percentage of illegally employed children than in any other southern State except Virginia. In 1 establishment more than 5 per cent of the employees were under the legal age and in 9 establishments less than 1 per cent were under 12 years and not legally excepted from the provisions of the law.

"Page 187: In Alabama 8 of the 13 establishments investigated employed children under the legal age. This is a smaller proportion of establishments than were found thus violating the law in Georgia, but a much higher proportion of children were illegally employed, although this proportion was lower than in either North Carolina or South Carolina. A total of 71 children were found to be under the age of 12 years. This was 7.5 per cent of all children and 1.59 per cent of all employees in the establishments illegally employing children under 12 years of age; it was 6.1 per cent of all children under 16 years of age and 1.27 per cent of all employees in the 13 establishments investigated. Of the 71 children under the legal age 48 were at work in one mill. This was the only establishment in which more than 5 per cent of all employees were under the legal age, as against 1 in Georgia, 6 in South Carolina, and 12 in North Carolina.

"In Virginia 2 of the 4 establishments investigated employed children under the legal age. In one of these only one child was found to be under 12, and in the other only one-half of 1 per cent of all employees were positively proved to be under 12 years of age.

"In North Carolina, in 6 of the 59 establishments investigated, more than 25 per cent of the children were under 12 years of age, and in 3 of these approximately 35 per cent of all child workers were thus illegally employed.

"In Georgia only 1 establishment was investigated in which more than 25 per cent of the children were under the legal age, and in Alabama none. In 22 establishments in North Carolina, 4 in Georgia, and 1 in Alabama more than 10 per cent of the children were found to be under the legal age. In Virginia in 1 establishment investigated 4.1 per cent of the children were found to be under the legal age and in another 0.4 per cent.

"On page 188: It will be interesting to compare conditions in Mississippi, where there was no child-labor law at the time of this investigation, with the conditions disclosed in the tables which have just been discussed.

"In Mississippi every establishment investigated employed children under 12 years of age. This was not true of any other State. In one establishment, as indicated by the table, such children constituted 15.87 per cent of all employees, a higher percentage than in any other establishment investigated. Of the total employees in the establishments visited children under 12 constituted 5 per cent, a much higher proportion than in any other State.

"In the 5 States having child-labor laws, 753 out of 9,126 children, or 8.3 per cent, were found to be under the legal age. If those under 12 but legally excepted are added, the total is 836, or 9.2 per cent. In each of the 9 establishments investigated in Mississippi more than 10 per cent of all children were under 12 years of age, and in all but 1 more than 15 per cent. In the 9 establishments 113 of the 539 children, or 21 per cent, were under 12 years of age. This, again, is a much higher proportion than in any other State.

"On page 189: As shown by this table 494, or more than half, of the 949 children under 12 years of age were 11 years old. Of the remainder 283 were 10 years old, 107 were 9, 48 were 8, 16 were 7, and 1, who worked as a helper, was only 6 years old. A total of 172 children were under 10 years of age, and of these 46 were employed in North Carolina, 83 in South Carolina, and 28 in Mississippi, with only 7 in Georgia, 8 in Alabama, and none in Virginia. Of the 16 children 7 years old, 4 were employed in Mississippi, which, as has been stated, had no child-labor law at the time of the investigation; the other 12 were illegally employed, and 6 of these, as well as 1 child 6 years old, were at work in South Carolina. The names of only 4 children 7 years old were found on company pay rolls. Of these 2 were employed in Mississippi, 1 in North Carolina, and 1 in Alabama.

"Of the 753 children illegally at work in the establishments investigated the names of 592 appeared upon the pay rolls of the establishments employing them and the names of 161 were omitted therefrom. The wages of these 161 children were included with those of some other member of the family, and they were what are commonly known in southern cotton mills as 'helpers.'

"On page 190: At another mill in North Carolina was a spinner tending 6 sides, but for some time her sister, aged 11 years, had been helping her, and together they had tended 8 sides, and the older sister had received payment for tending 8 sides. At an establishment in Georgia a woman reported that her little daughter, 10 years old, worked every day helping her two sisters. The child quit for a while, but the overseer said to the mother, 'Bring her in; the two girls can not tend those machines without her.' The mother asked that the child be given work by herself, but the overseer replied that the law would not permit it.

"At a certain mill in North Carolina a boy 9 years old worked in the daytime. His wages were carried on the day pay roll under the name of a sister, who worked at night. When the sister was not at work the boy's wages were credited to the father, who is a machinist working in a different part of the mill.

"The above examples are typical and merely illustrate a common method of evading the law. This custom of indirectly employing children under the legal age has been so well recognized that, according to a labor agent in North Carolina, families on farms or in the mountains have commonly been assured that under the helper system all of their children may work in the mill and earn wages."

The CHAIRMAN. Mr. Holder, did you want to be heard this afternoon?

Mr. HOLDER. Yes, sir.

STATEMENT OF MR. ARTHUR E. HOLDER, LEGISLATIVE COMMITTEE, AMERICAN FEDERATION OF LABOR.

Mr. HOLDER. Mr. Chairman and gentlemen of the committee, I am not going to detain you but for a few moments. I would like to say, however, that after reading Mr. Palmer's bill, as carefully as I am able, I have come to the conclusion that it is the product of an industrial statesman, or of industrial statesmen and stateswomen. In all its details it is one of the most finished pieces of work I have seen around this Capitol. It has been drawn with particular care not to make it verbose or have it overburdened with unnecessary material. Its administrative functions, I believe, can be worked out to such a nicety that there will be little or no difficulties of any kind to contend with. And the fact that it places the matter under Federal jurisdiction will not be the only feature of interest that will enforce the bill if it should ever be enacted into law. The moral effect it would have would stimulate State legislatures to bring their laws up to the uniform standard of the Federal law is an excellent feature; it would also encourage their jealous regard for their own rights—standing firmly on the old State rights doctrine—to see that there was not any Federal interference with the enforcement of the State laws after their State laws had been brought up to the Federal standard.

I believe a word of commendation should be given to this committee at this time, particularly from myself, representing the organizations that I do, for the world knows that we have been struggling for a great many years in behalf of the children. We have taken advanced steps in various States before we have reached this happy day, this particularly happy day, Mr. Chairman, in this very room, when almost—well, when everybody is unanimous in supporting a law for the social welfare—the greatest investment there is in the country—of the child; when there is not a voice heard in opposition to any feature of the bill. It is only a few short years ago when to stand in this room and support a law on behalf of the child, the workingman, or the working woman was to be ridiculed; and it is only seven short years—if I may be pardoned for making these observations, but I think it is necessary because it displays the wonderful growth and development of our human feelings—only seven short years since Albert Beveridge during the debate on his bill made his celebrated three-day speech in the Senate, and he knew something about it; he was ridiculed from the highest to the lowest because he proposed to bring in the Feneral Government to interfere with State rights in regard to the status and rights of children.

I could reiterate and corroborate some of the statements made by Dr. McKelway with regard to the difficulty of legal enforcement of laws of this kind. I happen to have occupied the rather unique position of being the first factory inspector in the State of Iowa; and my good friend, Miss Kelly, will remember when we had no State factory laws in the State of Iowa. But even before there was a line of law written, I took it upon myself to see what the conditions were, and, as a result of my investigations, made a report to the governor, as deputy commissioner of the bureau of labor statistics. Upon the strength of that report the first factory-inspection law of the State of Iowa was written.

I well remember, in the southern part of the State, when I would go into a mill or factory and commence to talk to the owner about the proposition, he would say, "Oh, we came over here from Missouri to get away from all these pesky labor laws"; and in the upper part of the State they would say, "All these pesky laws are interfering with our business." Interfering with the business of exploiting children and women and trying to make the State of Iowa a pauper-labor State. We said no.

There is one point that has not been touched on or referred to by any of the previous speakers, and that is that I anticipate we are going to have some difficulty in connection with section 5. I will read the section (reading):

"SEC. 5. That any person, partnership, association, or corporation, or any agent or employee thereof, manufacturing, producing, or dealing in the products of any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment who shall violate any of the provisions of section 1 of this act, or any of the rules and regulations made in accordance with the authority contained in section 2 of this act, or who shall refuse or obstruct the entry or inspection authorized by section 3 of this act, shall be guilty of a misdemeanor and shall be punished by a fine of not more than $1,000 nor less than $100, or by imprisonment for not more than one year or less than one month, or by both fine and imprisonment, in the discretion of the court."

I believe it is the first time to my knowledge that such a proposition has been made in a bill before the Federal Congress. It is only a few weeks ago that—you will remember—some Federal agents were forcibly ejected from the Louisville & Nashville Railroad offices because they insisted on getting detailed and accurate information for the benefit of the Interstate Commerce Commission. I am just wondering what is going to happen with some of our peculiar employers when they know there is a Federal inspector wants to go through their plants to see if there are any children under age employed there. It is going to be an interesting experiment. I just point out to you that you may have to defend that particular proposition, and it is wise to be prepared.

Then, on line 11 of the first page, after the word "time," I think these words should be added. It is at the present time not very definite, and I think it should have these words added. Line 10 starts, "children under 14 years of age are employed or permitted to work at any time," etc. I would propose that you add "during the day or night" after the word "time." It would then substantiate and clarify the words that follow so there would be no doubt whatever concerning what the expression "at any time" means.

Mr. NOLAN. The bill practically prohibits their employment after 7 o'clock in the evening, doesn't it?

Mr. HOLDER. Yes, sir; but I believe you might run into some difficulty with some of the courts over those words "at any time." I am not a lawyer, but it occurred to me there was an opportunity left open at that point to have the effectiveness of the bill vitiated.

I was going to add one more word, Mr. Chairman. It may be that you have to verify this before the House, with regard to the need of this measure, with facts and figures. I don't know what data has already been presented and introduced by the previous speakers, but I presume that they have been extremely careful in the preparation of the statistical information they submitted to you. But if you have not got everything complete and need any tabulated official information I would particularly refer you to the investigation made by the United States Bureau of Labor Statistics on the strength of the law of 1906-7, on women and children labor investigations, hours of labor, etc. The results of that investigation are contained in 19 volumes. Some of you who are here to-day remember the difficulty we had to get that investigation, especially to have the investigation made by the Bureau of Labor Statistics, and after we got the authority for the investigation, the difficulty we had in getting the necessary appropriation. But you will find in those reports complete and accurate information up to the time that investigation closed.

Mr. PALMER. Hasn't there been prepared a summarization of that work so that it is more readily accessible than in that large work of 19 volumes?

Mr. HOLDER. I think so; yes, sir; and it would not be necessary to go through the whole 19 volumes.

Mr. PALMER. It is not in print, however.

Mr. HOLDER. No, sir; I don't believe the summary is yet in print; I understood that it was being prepared.

Mr. PALMER. Isn't it one of the things the Bureau of Labor Statistics wants this large appropriation for?

Mr. HOLDER. I know they are very much behind with their work and are suffering for the lack of sufficient appropriations.

Mr. PALMER. I would suggest, Mr. Chairman, if you will permit me, that I ask Mr. Meeker to transmit to you all the information he has on the subject.

The CHAIRMAN. We don't want to duplicate any of this matter, but I don't know whether he has sent that or not.

Mr. LOVEJOY. I regret to say, Mr. Chairman, the summarization you are speaking of has not been made. The Children's Bureau offered to undertake the preparation of it, but they were not authorized to do so. I think, however, that it is a matter that ought to be very vigorously urged. Our committee has been urging it, but we have not yet accomplished anything.

The CHAIRMAN. Have you any further witnesses to introduce, Mr. Palmer?

Mr. PALMER. I think not, Mr. Chairman.

The CHAIRMAN. We have not yet heard from any who may be adversely interested in this bill; but the committee will wait for a reasonable time for any such persons to appear here for that purpose. I will keep you advised, Mr. Palmer, from day to day, of the situation.

(Thereupon, at 4.20 p. m., the committee adjourned.)

BRIEF OF A. J. MCKELWAY, WASHINGTON, D. C., SECRETARY FOR THE SOUTHERN STATES OF THE NATIONAL CHILD LABOR COMMITTEE.

The standards of child protection recognized in the bill before this committee are, in brief, a 14-year age limit for employment in manufacturing establishments, with an eight-hour day for children under 16; the prohibition of night work for children under 16, and an age limit of 16 for employment in mines and quarries, this latter provision being not only for the protection of the children but for the whole force of miners whose lives are often endangered and have been frequently sacrificed through the carelessness and recklessness of immature boys. On page 19 and following of the second section of these hearings Mr. Lovejoy has given a schedule showing how the States of the Union stand in reference to these standards of legislation, which are also recommended for adoption in all the States by the American Bar Association in the uniform child-labor bill prepared and indorsed by that body. When it comes to the population of the States having these standards, as compared with those which have them not, I desire to submit the following figures taken by States from the census of 1910:

Out of the 81 972,266 people in the continental United States 78,931,619 are citizens of States having adopted the 14-year age limit for the employment of children in factories, while only 13,040,547 are citizens of States not having reached that age limit; that is, 86 per cent of the population, through State legislation, have already adopted the 14-year age limit. When it comes to night work for children under 16, that is prohibited by the laws of States having a population of 77,657,354, and has not yet been adopted in the States having a population of 14,314,912; that is, 85 per cent of the population have already said by State legislation that they believe in the prohibition of night work for children under 16. Taking the 16 great mining States of the country, we find that out of the 50,366,014 people who live in these States, the States having a population of 37,359,433 have enacted the 16-year age limit for mines, while 13,007,581 live in States which have not enacted such a law; that is, 74 per cent of the population of the mining States, as against 26 per cent, have agreed to this provision for the protection of children. When it comes to the eight-hour day for children, we have on the one hand 46,150,275 people who, through State legislation, have enacted the eight-hour day, as compared with

45,821,991 people that have not yet come to this standard; that is, about 50.6 per cent, as against 49.4 per cent, have committed themselves to this principle.

Mr. Lewis W. Parker, whose statement has just been made to the committee, controls, as he has stated, a large number of spindles in the combination of mills of which he is the controlling agent. Most of the mills in this combination are recognized as having the best conditions in the State; but it is an old plan, which has been successfully followed many times in State legislation in South Carolina, that the representatives of the best mills are put forward as typical of the whole class of manufacturers, and they tell the legislature that the provisions they have made for the welfare of their employees is an argument why the whole matter of child-labor legislation should be left in their hands. Mr. Parker bases his argument against the pending bill upon the proposition that this is a matter for State legislation and not legislation by the Federal Government. It becomes necessary therefore to show what Mr. Parker's attitude toward State legislation has been during the years of agitation for a better law than South Carolina now possesses on the part of the humane and disinterested people of South Carolina and the friends of the cause of child-labor reform throughout the Union. South Carolina is one of a group of five Southern States now below the 14-year age limit, the others being North Carolina, Georgia, Alabama, and Mississippi, Mississippi having a 12-year age limit for boys and a 14-year age limit for girls, all the other States of the Union, including all the other Southern States, having reached the 14-year age limit—one or two having passed beyond it—except New Mexico, Nevada, and Vermont, and in these States the number of industrial establishments are few, and in Vermont the compulsory education law puts the 14-year age limit into effect during the whole school term. The Federal child-labor bill, so far as the 14-year age limit is concerned, therefore has already been adopted by the great majority of the States and South Carolina is one of a small group of States that are backward in this regard. In 1901 the Marshall bill, with a 12-year age limit, was before the Legislature of South Carolina. At a meeting of the house committee January 21 of that year Mr. Parker is reported in the Charleston News and Courier, a paper most friendly to the manufacturing interests, to have "opposed any bill undertaking to regulate the labor of children over 10 years." The bill was defeated and again introduced in 1902. The Columbia State, of January 17, publishes a memorial of the mill men to the legislature, Mr. L. W. Parker signing the memorial, from which we quote:

"They shall request, however, that if the legislature, in its judgment, feels that it must enact some child-labor law, the age limit be fixed at 10 years for day work, and that the employment of minors under 12 years of age at night after 10 o'clock be prohibited."

At that time the mills in South Carolina were running on a 66-hour week, which meant, as Mr. Parker has explained, a 12-hour day for the first five working days of the week. According to the census of 1900, 30 per cent of the operatives in South Carolina at this time were from 10 to 15 years of age, not counting those under 10. A compromise bill was finally adopted in South Carolina, the cotton manufacturers having ever since claimed credit for the enactment of this measure, a credit to which they are perfectly welcome. Under this bill a manufacturer could only be prosecuted who "knowingly" violated the law; and it is difficult for any one to know the age of another man's child unless he wants to. Where ignorance is immunity, 'tis folly to be wise. Under this bill a 10-year age limit was established the first year, an 11-year age limit the second year, and a 12-year age limit afterwards. According to the census of 1900, there were 742 children in Greenville and Spartanburg Counties alone of 10 and 11 years of age at work in the mills. A further provision of this bill allowed children of any age who were orphans, or the children of dependent parents, to work in the mills, and children of any age to work during the summer months. I have a photograph of an orphan child working in a South Carolina cotton mill as late as 1907, who was then 7 years of age and who had gone to work at 5½ years of age; and this was not a violation of the law which the South Carolina manufacturers induced the legislature, by way of compromise, to accept. Since that period the 66-hour week has been modified to the 60-hour week, which means an 11-hour day for the first five working days of the week with a half holiday on Saturday; night work has been prohibited for children under 16 years of age; and the exception to the 12-year age limit has been stricken out. Mr. Parker opposed the enactment of the 60-hour week in 1907. My own contention is that except for the activities of the National Child Labor Committee and the South Carolina Child Labor Committee, even this small advance would not have been made; and Mr. Parker does not deny that he has opposed consistently ever since that time the raising of the age limit from 12 to 14, which would only reach the general American standard, because, as he says, he has been in favor of the passage of the compulsory-education bill first. For several years the age limit for compulsory education insisted upon by the manufacturers was 12, which, of course would not interfere with the employment of children over 12. And Mr. Parker comes forward now with a new provision which must be accepted before he is willing to allow the enactment of the 14-year age limit law, namely, that the children of dependent widows must be cared for.

I desire to say that I have been able to accomplish something in the Southern States in the enactment of compulsory school laws. It is a part of the program of the National Child Labor Committee. But I have come to the conviction, through experience with the legislatures of the Southern States for the last 10 years, that we shall never have compulsory education in the main cotton-manufacturing States of the South up to 14 years of age until a child-labor law is enacted, either by the States or by the Federal Government, prohibiting the labor of children under 14 years of age. Mr. Parker will not dispute the statement made to me in the presence of Mr. Lovejoy and Mr. Swift, who have both appeared before this committee, that there are practically no children over 12 years of age in the cotton-mill districts of South Carolina who are attending school, the reason being obvious—that there is demand for their labor. The negro population in South Carolina is larger than the white population; therefore, more negro children are attending school than white children, though the percentage of attendance for negro children is smaller than that of the white children. As Mr. Parker states:

"Personally, I believe in it for the negro as much as for the whites; but it takes time to bring about a change in public sentiment, and that is what would be necessary before our people would be prepared to adopt a compulsory condition in regard to education."

So the whole program of Mr. Parker is that of postponement of all child-labor legislation by the State of South Carolina until public sentiment will demand compulsory education. It is well known that there is as much opposition among the parents of children in the cotton-mill villages, who are voters, to compulsory education as there is to raising the age limit for the employment of these children. So the proposition of the cotton-mill manufacturers is a perfectly safe one, to wait an indefinite period until a compulsory-education law is passed, and then to have a child-labor law enacted of proper standard as to age.

When there was no child-labor law in South Carolina, in 1900, the Census Bureau published the following figures for Greenville and Spartanburg Counties:

Age.	Greenville and Spartanburg Counties.	
	At school.	Employed.
5 to 9 years	251	147
10 years	79	351
11 years	50	391

Now, with a 12-year age limit established, the majority of the children under 12 are attending school. The 12-year age limit practically prohibits children after 12 from attending school, not only because of the demand from the mills for their employment, but because of the willingness, and sometimes eagerness, of the parents to secure their wages. One South Carolina manufacturer insists by contract that children over 12 shall work in his mill. The situation would be vastly remedied by raising the age limit to 14, because it would give an opportunity to a large percentage of these children to attend school until the fourteenth birthday an opportunity which is now practically denied them. It is possible also that South Carolina will have some years to wait before the legislature enacts a widows' pension law, as many of the other States of the Union have done. So, even after the passage of a compulsory education law, according to Mr. Parker's contention, we shall have still further postponement of the standard child-labor law for South Carolina because of the new demand that is made through Mr. Parker that the children of widows must be taken care of.

The Federal Bureau of Labor, in its report on the condition of women and child wage earners in the United States, published the following facts concerning the illiteracy of the cotton-mill children in volume 1 on the Textile Industry: In South Carolina children under 14 years of age were 50 per cent illiterate; in North Carolina, 53$\frac{8}{10}$ per cent; in Georgia, 42$\frac{7}{10}$ per cent. These figures do not vary greatly from the census figures of 1900, in which it was shown that the white illiterate children 10 to 14 years of age in the State at large were 16 per cent of the whole number of children of that age, and, of course, the figures for the State included those for the children of the cotton mills. But the children of the cotton-mill villages who were 10 to 14 years of age were 50 per cent illiterate. In South Carolina for the State at large 14 per cent of the white children 10 to 14 years of age were illiterate; in the cotton-mill villages, 48½ per cent; in Georgia the corresponding figures were 12 per cent and 44 per cent. The figures that are quoted from the Federal Bureau of Labor were procured in 1907–08. Since the adoption of the 12-year age limit, without exception, it is to be hoped that there has been some improvement, and with the adoption of the 14-year age limit there will be vastly more improvement. The importance of this measure to the individual manufacturing establishment, so far as the fixing of the age limit at 14, is indicated By Mr. Parker's figures for the Olympia Cotton Mills in Columbia, S. C. He says that in that mill there are approximately 800 employees. Of these 800, by an absolute census taken a few months ago, 22 are children between the ages of 12 and 14 years. Now, certainly it would not be a great hardship upon any one establishment—and this is one of the largest in South Carolina—to find 22 workers over 14 to take the places of those under 14.

The Federal Bureau of Labor also investigated the question as to the dependence of parents upon the wages of children under 14 years of age. It should be remembered that families having a large number of children are more welcome at the mill, and can more easily sustain themselves under present conditions, than families with few children or none. In South Carolina 50 widows having 75 children under 14 years of age, 40 of whom were illiterate, received an income of $525 per year, exclusive of the earnings of the children under 14, which amounted to $209. Fourteen families having incapacitated fathers, with 21 children under 14 years of age, 12 of whom were illiterate, received an annual income of $693 exclusive of the earnings of the children under 14, which amounted to $198. Seven families with idle fathers, with children under 14 years of age at work, received an annual income of $591 exclusive of the earnings of the children under 14 years of age, amounting to $174; while 19 families with both parents at work, having 29 children under 14 years of age at work, 15 of whom were illiterate, received an annual income of $720 exclusive of the earnings of the children under 14 years of age, amounting to $171; and 199 families of children with fathers, but not mothers, at work, the normal state of the family, with 313 children under 14 years of age at work, 150 of whom were illiterate, received an annual income of $823 exclusive of the labor of the children under 14, which amounted to $220. It will be seen from these figures that there is not such a great difference between the average annual income of the widow's family or the family with an incapacitated or idle father and of the family where both parents work, or where the father and not the mother works; and when it is taken into consideration that child labor itself depresses wages, and that the elimination of children under 14 tends to raise the wage scale for the whole mass of workers—a fact which the cotton-mill workers do not appreciate, because every attempt to organize them into labor unions has been met with successful resistance by the cotton-mill employers—it is a reasonable hope that the wages of the family will remain about the same even though the children under 14 are excluded from the 11-hour day of the cotton mill and are allowed the opportunity of an education. Strangely enough Mr. Parker contends that child labor is not cheap labor, but dear. He says:

"If I were to-day to consult my own immediate selfish interests as to employment, I would be glad indeed not to have a child in my employment under 14 years of age; it is not cheap labor."

If this statement is meant to stand, the Congress of the United States will really be doing the cotton manufacturers of South Carolina a service by forbidding he employment of dear labor.

In reply to the question of Mr. Nolan, as to the standards of California regarding the employment of children, Mr. Parker says:

"I congratulate you folks in California upon being able to arouse the public through which was able to overcome opposition; and I also believe that in South Carolina, as soon as conditions justify such public sentiment, that the people there will make provision also for the education of the children and for the support of the children."

If Mr. Parker and his fellow manufacturers will cease their opposition to child-labor legislation by the State of South Carolina, there will be little left to overcome in the way of securing other conditions for child welfare, and if they had not been resisting such legislation for the past decade and more, South Carolina would not now be affected in any way by the passage of the Palmer bill. In this connection I wish to correct the impression Mr. Nolan seems to have had, that this bill would have any effect upon the farmers of the South as to marketing their cotton. It is not concerned with the labor of children on the farm.

As to Mr. Parker's threat that through the enactment of the proposed bill into law negroes would have to be employed in the mills instead of whites, it is difficult to see how this can be worked out, unless negro labor can be employed to greater advantage, because the children of negroes will be excluded from manufacturing as well as the children of the whites. Mr. Parker has something to say about the present State administration in South Carolina under Gov. Blease. It is a matter of some importance that Gov. Blease is now a candidate for the United States Senate, and that one of the main sources of his strength at the polls is among the more or less illiterate voters of the cotton-mill districts, who regard him as their friend, and in whose behalf he has vetoed bills relating to the enforcement of the child-labor law and relating to local compulsory school attendance laws. If Gov. Blease, who has come into national prominence, shall be elected to the Senate, he will be one of 96 men who will help to make laws affecting the people of every State in the Union. It is a matter of national concern, therefore, whether the employment of children in South Carolina has so interfered with their education as to effect adversely the interests of the American people.

Mr. Beattie confirms Mr. Parker as to the small interest any individual mill has in this bill so far as the 14-year age limit is concerned. He says that in the Piedmont mills there are now 41 children between the ages of 12 and 14 out of the 950 operatives employed. He also says that child labor is not economical labor.

With reference to the number of children employed below the age of 12 before any legislation on that subject, Mr. Beattie says that there were "some employed below the age of 12." From an investigation made in 1907 by Mr. August Kohn, a newspaper correspondent, who, I understand, acts as the legislative agent of Mr. Parker in keeping him informed as to bills affecting the manufacturing interests, we have this statement:

"I should say that it would be altogether conservative to figure that there are 1,500 children under the age of 12 employed in the cotton mills of South Carolina."

When factory inspection was first secured for South Carolina, the labor of children of any age being still allowed during the summer months, and if the children were already handicapped by orphanage or the poverty of their parents, Commissioner Watson wrote to me that "1,500 children under 12 have been turned out of the South Carolina mills in the last six months who were illegally employed." With the same low standard law in operation, the Federal Bureau of Labor, in its report, declared: "The most extensive violation of the age-limit law was found in South Carolina. In addition to 42 children under 12 years of age who were orphans, children of widows, etc., and who were therefore legally employed, 405 other children under 12 years were found working in the establishments investigated in that State. Children under the age of 12 years were employed in 34 of the 36 establishments investigated in this State. In 20 establishments between 1 per cent and 5 per cent were thus illegally employed; in 3 establishments, between 5 per cent and 10 per cent; and in 3 others over 10 per cent of all employees were children under 12 years of age who were not legally excepted from the provisions of the law." I commend to the members of this committee the study of Volume I of the Report on Condition of Woman and Child Wage Earners in the United States (S. Doc. No. 645, 61st Cong., 2d sess.), in view of the fact that among all the employers of child labor in the United States the only ones who have appeared before this committee in opposition to this bill are cotton manufacturers from South Carolina.

With regard to the health of the operatives, of which Mr. Beattie and Mr. Long spoke, I call attention also to volume 14 of the same report, as to causes of death among cotton-mill operatives, in which the death rate of individuals in cotton-mill communities over 10 years of age was studied by an investigation of individual cases. I quote merely the following statement from the summary of this report:

"The effect of cotton-operative work upon health, as reflected in the death rate, differs widely between the sexes. For the 30-year age period—from 15 to 44—in which the great majority of the operatives are found, the death rate of males and females in the general population are almost identical, the male rate being 6.19 and the female rate 6.18. A comparison of the death rates of male and female nonoperatives shows the rate for males to be 22 per cent in excess of that for females (male rate, 6.48; female rate, 5.31). When, however, the comparison is confined to the death rates of operatives, the female rate shows an excess of 33 per cent over the male (male rate, 5.74; female rate, 7.63), despite the younger ages of the female operatives.

"In the age groups within which operatives and nonoperatives are fairly comparable, female operatives have a decidedly higher death rate than nonoperatives. This is most marked in respect to tuberculosis, the death rate of female operatives from this cause being in general more than twice that of nonoperatives, and in some of the race and age groups running up to many times as high. Thus in the age groups 15 to 24 years, 25 to 34 years, and 35 to 44 years the death rates from tuberculosis per 1,000 were, respectively, two and one-fourth times, two and one-half times, and five times those among women of the same age groups outside the cotton industry."

As there is no mining industry in South Carolina, and as the State has already adopted the 16-year age limit for night work, there remains to be considered only the eight-hour-day provision for children under 16 years of age. It would seem to be reasonable that, since the Federal Government and 27 of the States have adopted the eight-hour day for adults on Government and State work, since 11 States have adopted an eight-hour day or less for the work of convicts, and since a great number of the trade-unions have forced an eight-hour day through demands upon their employers, the Federal Government should insist upon the same working limit for children under 16 years of age. Such great manufacturing States in the Union as Illinois, Indiana, California, Missouri, New York, Ohio, and Massachusetts have adopted the eight-hour day for children under 16; and I call special attention to Massachusetts, since that is the greatest cotton-manufacturing State in the Union. The efforts to repeal the eight-hour day made by the cotton manufacturers of Massachusetts have been unavailing with the legislature; and, concerning the effect of the law, I beg leave to quote the following from a recent issue of The Survey:

"Last year Massachusetts gave to boys and girls under 16 the eight-hour day already secured by most adult public employees and skilled adult workers in 16 other States. The law was enacted after two years of deliberation, which brought out all conceivable arguments on both sides.

"The strongest point made by the opposition was that the children would not receive the benefit of the law, because they would be discharged; they would be driven into idleness and crime and their families would suffer from the loss of their wages. The law has had seven months' test. Of the 30,000 children under 16 at work before it went into effect, 28,000 were at work in December, 1913, as shown by the statistics of employment certificates issued. Most of this readjustment to eight-hour schedules had been completed in October. Reports from attendance officers throughout the State show that there has been no increase in idleness and crime and that the few children displaced have returned to school, as the law requires. To determine if there had been an increase in family hardship, the board of labor and industries sent an inquiry to all public and private charitable agencies in the State. They report only five cases where permanent aid had been necessary and 11 cases where temporary aid was necessary." (The Survey, May 16, 1914.)

The threat that the manufacturing establishments of South Carolina would be put out of business by the adoption of the eight-hour day for children under 16 is such an old contention that it is hardly worth while considering. If they are to continue to work the remaining force of their employees 11 hours a day, they might arrange that children of 14 should be employed for five hours and children of 15 for six hours. I have heard a similar threat made in every legislative contest from Maryland to Arizona—that somebody would be put out of business by the child-labor legislation proposed—and I have yet to hear of a single establishment that has gone out of business for that reason. The fact is that when the next legislative restriction is urged the manufacturers contend that the law under which they are working, which they formerly opposed, is an admirable law and that they are prospering under it. Those who are readers of Dickens—and I suppose everyone is—will remember that he stated this argument in "Hard Times." The manufacturers of Coketown, he said, had been "ruined" very often. They were ruined when it was suggested that children should be turned out of the mills and sent to school; ruined when it was hinted that their machinery was chopping up too many people; ruined when it was suggested that the factories were making too much smoke; and their final threat always was that rather than submit to the next legislative restriction they would "pitch their property into the Atlantic." The intelligent manufacturers of South Carolina will adjust themselves to the new conditions just as the equally intelligent manufacturers of Massachusetts have done in the same business. If not, I make bold to reassert the doctrine laid down by Judge Grose in England over 100 years ago, in the opinion he delivered in sentencing one Jouvaux to 12 months' hard labor for overworking his young apprentices:

"If the manufacturers insist that without these children they could not advantageously follow their trade, he should say that trade must not, for the sake of filthy lucre, be followed, but at once, for the safe of society, be abandoned."

If a manufacturing establishment can not survive without employing children under 14 years of age, without employing children under 16 for more than eight hours a day, or during the night when children should be asleep; or if a mine can not be profitably worked without employing children under 16 years of age in its dark recesses, then let the factory or the mine be abandoned. The welfare of the children is a greater consideration than the profits of the few employers. And it appears to me to be almost a ridiculous proposition that the cotton manufacturers of South Carolina should alone have publicly protested against this bill, while stating to this committee the comparatively few operatives who would be affected by its enactment into law; that for the sake of their own profits, or even, as they contend, for the welfare of these few children, they should oppose the enactment of a general law applying to the whole Nation, serving to supplement and enforce the standards of the great majority of the States, and proposed and advocated for the welfare of millions of children in America, who would be protected from undue exploitation now and in all the coming years.

STATEMENT OF MISS ELIZABETH WATSON, OF THE INTERNATIONAL CHILD WELFARE LEAGUE.

AVERY ISLAND, LA., *March 24.*

Avery Island is a beautiful place. The owner has a special reservation for the aigrette heron and other birds, and is an active member of the Anderson Society.

Canneries not working on oysters this year. Tabasco sauce factory working. Salt mine working. Superintendent salt mine said, "We use children whenever we can, but with the exception of filling salt bags, there are no children employed in this branch of the company. Some 4 or 5 boys, age 9, 10, and 11 years, fill the bags when necessary. We can get boys for 50 cents per day. Why should we pay a woman $1, or a man $1.50?" Camp houses are full of people, women and children, who work in the cannery (when it runs) and the tabasco factory. Children work in the cannery in the pepper sauce factory, filling the bottles with peppers; also picking peppers in the fields when they are ripe. The Baltimore (Md.) families do not like to go to Avery Island because "it is so lonesome." While in Baltimore I visited a family (mother and five children), all of whom have worked in Avery Island. They got $1 a day picking peppers—baskets holding about 2 bushels of the smallest variety of the peppers. They worked in the fields from sunrise until 6 o'clock p. m. Sometimes they had to walk 2 miles to the place where the peppers were ripe. When this family were not picking peppers they worked in the cannery cutting okra—5 cents a dish pan full. Sometimes made as high as 80 cents per day, mother and five children. The children in the pepper factory make 12 cents a dozen for filling the big bottles with peppers—22 cents for filling the little bottles (because it is so hard to put little peppers in the little bottles). They pick shrimp, 5 cents a pot holding 5 pounds. Sometimes when they get through picking shrimp early in the afternoon, they would cut okra until 6 o'clock at night. Water was very bad at this camp. The women complained that it is rain water, and they have to walk one-half mile away to get the drinking water from the spring. A great deal of malaria is on the island. Company owns company's store. Families have to buy from the company store. One day the owner of cannery saw a woman coming out of another store, said, "You can not work in my cannery if you don't buy in my store." The woman said, "You charge too much. You charge 10 cents a loaf for bread. I buy it for 6 cents at other stores." He said, "I don't care, if you work in my cannery you buy from my store." In the Avery Island cannery the people are paid in checks, which they can only cash every 30 days. They won't give them cash for fear they will leave. In one family (father, mother, and five children), who work there, the man made $1.50 per day, the woman and five children working in the cannery, and the six of them, working every day, saved $20 per month.

I visited the school on the island and gleaned the following facts:

1. Avery Island has some 150 children under school age.
2. Only 42 of these are enrolled in school.
3. The daily attendance in the school runs from 20 to 30 children, according to the amount of work being done at the tabasco-sauce factory belonging to the same company.
4. All the children in the school work at the canning factory when necessary.

I talked to some 14 children of ages from 5 years up to 12—I believe there were no children registered over 12 years old—and they all said they worked. The teacher said, "Oh, yes; every one of these children work; that is what makes it so hard to do anything for them here in school. They come one day and are out the next. You see, even when the cannery is not running, the tabasco-sauce factory is, and their children all help them." I asked what nationality her children were. She replied, "Native stock of French origin. I am sorry to say so; it never seems quite so bad for the foreign children in the camps to stay out of school. None of those children now in the camps have ever come to this school; but it does seem too bad for our native children to be losing their chance for schooling."

HOUMA, LA.

Found the cannery near the station. Went over. Most of the help had gone home, only a part remaining to pick a few shrimp that were left. At 4.15 p. m., when I visited the cannery, there were 22 girls picking shrimp. Of these two were quite apparently less than 12 years old; and a worker from that factory told me next day that a little girl named Paula, only 7 years of age, worked there regularly. I remained overnight in Houma, and visited the cannery next day, to find it was not running, no shrimp having come in; but Joe said, "Oh, yes, ma'ma; lots of children work here—8, 9, and 10 years old.

Thursday, March 26.—Left New Orleans for Dunbar. I was refused permission as a tourist to enter Dunbar (La.) cannery. In the afternoon at 4 o'clock I saw children that could not have been over 7 or 8 years old come out of that cannery. Two of these—both Polish children, speaking no English—wore big pieces of burlap bagging tied about them as aprons, the condition of which showed plainly the children had been working in the cannery. I counted 16 children in all—9 boys, 7 girls—leaving the cannery after 4 o'clock. All looked less than 12 years old.

Sophia W.: Born 1900. Canned oysters. Went back to Baltimore; went out to strawberry country. From strawberry country went out to tomato country, and back in the fall to the oysters again. Did this way three years. Is in the third grade at school.

Annie B.: Born in Baltimore, 1902. Canned oysters down south this winter; is now going out to work on strawberries and then into the tomato country.

Annie, age 12, and sister 16, a brother 18, a little brother 9, and a little sister 7, working from 4.30 in the morning till 6 o'clock at night on oysters in the South; cleared $18.

Katie K.: Has worked 5 years canning. When she works on tomatoes from 6 in the morning till 6 o'clock and 7 o'clock at night, and sometimes 11 o'clock at night. When they work overtime she can make from 90 cents to $1 per day. She and her father and mother and the little sister, age 8, and the little brother, 11, worked six months in the oyster-canning season. The father worked, removing shells from the packing house, got 15 cents per hour, but never worked a whole day. The three children, father, and mother brought back $18 for their winter's work of six months. The little sister, age 8, has never been in school.

The little brother, 11 years old, is in the first grade. Katie, who is 13 this fall, is in the third grade, Polish school, equal to second grade public school.

When Katie works in Maryland picking berries she starts work with sunrise, works until 6 o'clock, she gets her breakfast. I asked her why she didn't eat breakfast before going to work. She said, " I am sleepy when my mother calls me. You can not eat when its morning. I drink the coffee only. At 9 I eat breakfast. Then I pick peas until 12, and then sit down, because the sun is too hot. It will spoil if we pick now. At 3 I go back to the strawberries and pick until it is dark—7.30, sometimes 8. I get a half a cent a box for strawberries and 50 cents a barrel for peas (2½ bushels). This year they promised me 25 cents per bushel."

Katie says, " Houses are very bad. They leak much, and they crowd the ladies so. Me and my mother and the three children all in one room."

Mary F.: Was born in Baltimore, and lives there at 707 H Street. Last year she shucked oysters at Bay St. Louis, but did not go back this year, as she lost a baby with lockjaw there last year. It was only two weeks old when it was taken sick and died within a couple of days. She left Baltimore this fall for Biloxi, Miss., and went to work at the B. Canning Co. on the 17th day of November. Her baby was born in the Biloxi Hospital on November 29, and two weeks later she left and went down to the cannery at Lake Shore. Her husband had a job on one of the oyster boats there. When Mary first went to work at Lake Shore her children used to go down to the factory with her, James 10, Arthur 8, Harry 6, and the baby. One day the boss said to her, " Your children do nothing but play around the factory. Why aren't they working? " Mary said, " You said I needn't make my children work if I would come down here, and I am not going to make them work. They are too young. I didn't work when I was that old and I am not going to have my children do it." The boss said, "All right, if you women don't let your children work, and children won't work, then the boss won't pay the children's way home on the railroad train. You can buy the tickets for them." Mary said she was scared and thought the best way was to leave the children at the camp where he couldn't see whether they were working or not. So she left them home. She said: " If there had been a school there at Lake Shore I would have put them into school, but there wasn't any, so everybody's kids had to go to the factory unless their mothers left them in the camps, and lots of them were scared to do that. Then, if they went to the factory they had to work. A week after my 'set-to' with the boss my baby was sick. It rained the day before and I got him wet taking him down to the cannery. He began to cough, so I stayed home from the cannery, and the next day he was still sick. That morning the boss came along and asked me if I wasn't going to the factory. I said, 'No, sir; not to-day. My baby's sick.' He went off without saying a word, and about 9 o'clock he came up there with a wagon. He backed it up to my door and told the darkey to move my trunks, pans, and pots right out, and drive down from the camp and set them out on the road. I told him my baby was sick and my husband was out on one of their own boats out on the oyster reef, and I had to stay at home with the baby. He said, 'To hell with the baby. What do I care if it is sick. What I want is work.' "

Then the darky started across into my house, and I just up and took my oyster knife off the table and said, " You just dare come into my house," and they were scared and they drove off. Then I went to a telephone and called my friends at Pass Christian and asked for work, and they said the boss said all right, come along; he will pay the freight on your things if you can get them down to the railroad. That man at Lake Shore was so ugly he wouldn't even rent me a wagon to move my things, so I had to walk 3½ miles over to Waveland and 3½ miles back again, with my baby in my arms, to get a man to move me, and I had to pay him $3 to do it, too. I moved that very night. Went up on the 6.45 train, beat out as I was. I was afraid to stay down there another minute, that boss was so ugly. When he saw me moving he came down and cussed me out. He treated the women down there like cattle. He didn't care how their houses were, and he kept a whole drove of pigs that ran around in the yards all the time—couldn't leave your door open without they run in. Up here I can scrape along with what I get. Down there we were starving. At Lake Shore all were paid in checks and books on the company's store, and before the end of a week your store account was more than you and your husband could make, and even then the children were crying for more than they got. We paid 10 cents a loaf for bread there—it is only 6 cents here at Pass Christian; 15 and 18 cents a can for condensed milk (you can't never get milk in a canning camp that is fit to drink), it is 10 and 12 cents here. Fatback (salt pork) that we get up her for 10 and 11 cents we paid 20 and 25 cents down there, and we could only get fresh meat once a week at the company's store, and lots of us hadn't money enough to buy it when it did come. That Lake Shore is a dreadful place. That boss that I am tell you about got mad at an old white-haired woman, and he up and threw her across the car track. He used to curse and swear at his own mother when she came around. I declare it wasn't fit for any child to see, the way he treated the old people. We teach our children they must be polite to old people. He treated them like dogs; but then he treated everybody like dogs, and he was always saying to we Baltimore people, " He didn't like Baltimore people, except only the Polish Baltimore people, because they always did what they were told." They did, too. If he told a Polish lady to make her children work, she would set them right at it.

When I was in Baltimore a few years ago I tried to find Mary and her family, and was told by the people from her cannery that she and her children had been left back. The company wouldn't pay her way home because they didn't work enough.

I went to Pass Christian, and went down to the camp to see how the workers lived. In one big wooden tenement house of two stories high I found 21 families living. They had one or two rooms a family, according to size of family. Mary S., of Baltimore, with her three children, aged 2, 4, and 7 years, and her husband had one room—a large one. The husband dredges for oysters on the company's boats, the 7-year-old goes to school, and Mary and the 2 and 4 year old children go to the cannery. The 4-year-old child helps take care of the baby at the cannery, but works a little bit, too, sometimes. The house was a large frame structure two stories high. Front yard was filled with cans of every description (quite evidently a dumping ground for the town); the side yard and entrance was full of mud, behind the house was a swamp full of trees and dank underbrush, while on the right-hand side of the front yard, right up against the house, was a pig stye with four pigs in it. Chickens were running about the front yard, ducks and geese were in the mudholes. I went from this tenement dwelling to a row of red shacks some two blocks away, known as the red camp, so named in order to differentiate from a similar row a little farther down the street painted green and called the green camp. The camp consists of a long row of red frame buildings, built right next to and bordering on the railroad; built up on little brick legs or props. A shallow veranda ran across the front. This building was divided by thin board partitions into 12 separate living quarters two rooms deep. This row of buildings, also the green camp buildings, were built on swamp land. The company had dug a deep trench (which was full of water) on three sides of these shacks for drainage purposes. While visiting the camp a shower came up and in less than one hour's time the yards were filled and flooded with water. They were veritable ponds and I was obliged to walk in water up to my shoe tops for over half a block before I reached the sidewalk, where it was only ankle deep. The houses in themselves were better in this camp than in any other that I visited. Two women say Pass Christian is the only cannery they know of that does not own and run company stores. There they are free to buy where they please.

This story was told by Mary Smith, of Baltimore, who is working at Pass Christian. Her husband was an oysterman, and when John K.'s boss came around this fall to get help her husband agreed to go with his wife and children to work for the company. There were Mary, the husband, and seven children. Two older boys who work on the boats; Johnnie, 15 years old; Charles, 13 years old; Margaret, 11 years old; Catherine, 10 years old; and a little one of 3. During the second trip S. made on the oyster boat he was hurt. He was hit by a windlass while dredging his first day out, and the boat finished loading before bringing him in—six days in all. When he came to shore was sent to the hospital too late and died. When he died the family were so hard pressed for money the little girls had to go out and take up a collection. The cannery company would give them no help whatever and L. even refused to give Mary an order for groceries from the store. After he had been dead two days some of the women persuaded L. to advance the money for the funeral, accepting the insurance policy for $65 as a bond. Shortly after her husband's death Mary heard there was a good chance at Lakeshore cannery and she and her family went down there only to find it worse than Biloxi and that the man who had been booming Lakeshore was just another agent, receiving $1 per family for each one he obtained as workers. At Lakeshore the shuckers were not even paid in money but in checks on the company stores. Bread was 10 cents a loaf that was 6 cents in Biloxi; children's shoes were $1.75 and $2.25 for the same shoes 98 cents might buy in the Baltimore stores. The help was treated so badly it all left, so when Mary M. arranged with friends in Pass Christian to go up there and work she took Mary S. and her children along. "We all moved up here. And I can tell you it's a heap better, although it's none too good. The oysters are so small it takes a great many to fill a can at only 5 cents a can. Margaret, she's 11, Catherine 10, Charles, and I went to shucking at 6 o'clock this morning, and when we left the factory at 11.15 the four of us had only made 35 cents, and even when the oysters are big me and the children shucking all day can only make $5 in a week, and sometimes not that."

In the camp the row boss wakes them up at 3 a. m. The Polish women go down as soon as they can after they are awakened, but the other women, native Baltimoreans, never go down until 5 and 5.30. Mary S. went late this morning at 6 o'clock and the boss scolded her. He said there was no excuse for her coming so late. She had no young babies to make ready for the day.

Ida H. is 24 years old. She lives in N Street, Baltimore. Her husband is an oysterman. Mrs. H. and two sisters—Stella, aged 13 years, and Mary, almost 18 years old (orphan)—went to Biloxi early in the winter, hearing Lakeshore was paying good prices. They went there and left to move up to Pass Christian. Mrs. H. says when the bosses—the padrones—went around to get Baltimore help early in the fall he said the prices on oyster work were going to be high this season. There was very little work in Baltimore, and so they all decided to go down to "oyster country." Her husband had only been working a few weeks when the prices of oysters were cut down from 60 cents a barrel to 30 and later to 24 cents. She says it takes from 12 to 14 days for a man to make $6 and $7. Mrs. H. and her two sisters—Stella, 13, and Mary, 18—working from 6.30 a. m. to 4 p. m., with one hour for dinner, make 50 cents a day, which doesn't really keep us in food, said she. "Yes; I take my baby down there every day. I have to. There is no place to leave him, so I put him in his buggy and take him along. There are scores of children down there, plenty of little, tiny ones, working, too."

In the Pass Christian factory where I visited March 27 they were short of oysters, and the people were leaving when I got there. There were 16 children, among the number 6 of these, a boy of 12, a girl of 12, two girls of 10, a boy of 9, and a boy of 7, were still working when I arrived. The ages of those leaving were approximately as follows:

Age.	Girls.	Boys.	Total.
13 years	3	2	5
10 years	1		1
8 years	1	1	2
7 years	1	1	2

March 27. I left Pass Christian and went down to Biloxi. Here I spent the night in a cannery camp, sleeping on a rude wooden bunk (built into the wall), with a little loose Spanish moss thrown down on it for a mattress. The house leaked like a basket. It rained in on my bed, which could not be moved out into any dry spot, and every part of the house seemed equally wet. The sand fleas were so bad I couldn't sleep. The boss rapped on our doors before 3 o'clock that morning, and long before 4 o'clock I could hear my neighbors stirring and starting for work. Annie, with whom I was staying, called in when the boss knocked, saying, "Don't get up; that's only for the Polish ladies. They are the only ones that go to work so early. We don't go until 6 o'clock." I heard little children and baby carriages going down the veranda and pathway, and then I heard a whistle blow. It blew about five minutes. Annie called again, "That's just the 4 o'clock whistle; don't you care. They used to begin blowing that fierce thing before 4 o'clock in the morning, and they wouldn't stop until 6 sometimes. Just kept up a steady blowing so we couldn't sleep, until everyone was at work; and then the town people got after them, and now they can't blow it for more than five minutes at a time."

When I got up, about 6 o'clock, I found everything in the house was soaking wet. The floors, the bed, my clothing, everything. Most of the houses in that row (there were 18 in all) had leaked the night before. Everyone was scolding that their beds had been rained upon and the clothes they had on were wet. The houses consist of two tiny rooms, a kitchen with just enough room for a tiny stove, a small table, and two packing boxes for chairs, and a bedroom with a built-in bunk. Each room has a window and a door opening outside—one of the front veranda, the other on a back yard, and a row of toilets. The back-yard conditions were unspeakable, and the odor arising from the toilets was frightful. Chickens, ducks, goats, and pigs foraged at will; tin cans and garbage, newspapers, and old shoes were thrown into these yards. While I was helping to make coffee in the kitchen I heard a queer noise, and looking up discovered a pig going under the bunk in the front room. Annie drove him out, saying, "It's just awful down here; if you open your doors so as your house can dry out, the pigs and goats walk right in." I spent most of the morning visiting about in the camp, and they were finishing up a catch of shrimp in the cannery, and only old hands were eligible for shrimp picking. It pays better than shucking, and it is only given to older hands. The row of houses in front of our camp and to the left of it had all been wet through by the night's rain, and ducks and geese were swimming about underneath them. I visited Mrs. F., of Baltimore, in the oldest of all the camp buildings belonging to the company. Some of the rooms in it were completely dark, having no outside light or ventilation.

The only light they had was what came through from a narrow hall with a door at either end. At 11 o'clock late I ate some lunch and went down to the cannery. Lilliam C., a friend of Annie's, lent me a glove, can, and mitten. Not a question was asked. I just went with one of the girls (a friend of Annie C.) and took my place at a car. The people were very friendly and showed me how to hold the oysters the easiest way and the best method of holding the knife. Working beside me at the car was little Farrell, aged 7 years, who had been working all day, since 7 o'clock in the morning; Lena, aged 9, who, although a native of Baltimore (which city has a perfectly good school law), has never been in school over two weeks in her little life; Lena's father (an oysterman, off the boat duty), her mother, and a 17-year-old sister. On my left was a Portuguese man, who said he'd rather dredge for oysters for nothing than shuck oysters for money; an old man, whom every one called "Old John," and all kept teasing him about a recent sickness. I found he had just returned to work after having the smallpox. A native southern girl said when she worked very hard all day long she could sometimes make as much as 75 cents a day. She was troubled about me, and they all kept telling me that if I stopped to talk so much to everyone I wouldn't make any money. From 1 o'clock on to 5 there were 142 grown-up people and 37 children. Ages of children working in factory Saturday, March 28, 1914:

Age.	Girls.	Boys.	Total.
14 years	1	1	2
13 years		1	1
12 years	5	1	6
11 years	2	2	4
10 years	2	4	6
9½ years	1	1	2
9 years	1	2	3
8½ years	2	2	4
7 years	2	2	4
6 years	1	2	3
4 years	1		1
3 years	1		1
Total			37

Thirty-seven children were working, 8 small babies were in carriages, and 14 little ones playing (59 children in all in the shed). One little Polish boy (I couldn't get his name), a child of 3 years old, while playing ran in front of one of the cars and had his foot run over. Another child was struck in the face by an oyster shell thrown by another child. The mother of a little one, of about 20 months old, finding the baby fretful, took her out of her carriage, brought her over, put her down on top of the oysters in our car, gave her one to play with, and went on shucking. A group of little boys, six in all, the oldest perhaps 8 years old, were sitting on the floor about a big tin pan. Shucking into their own tin cans, they began to talk and laugh and the father and mother of 2 of them (Mr. and Mrs. N., who were shucking on my car) began to scold. The father would call out, "Here! here! you boys get to work. This is not the time for play. Earn your bread." The mother said, "Here, George, you get to work. If you boys can not work faster we will leave you down here. We won't take you back to Baltimore." Finally, the father and mother said to Lena, "Here, Lena, you work fast. You go over and work with the boys and make them keep up with you." When Lena cut her finger and stopped because it was bleeding, her mother said, "Tie up that finger and get to work. What do you want to stop and look at it for. Get to work, looking at it ain't going to make it well."

One entire car was given up to children whose ages ranged from 8 to 14—the little workers of 7 and under stood on wooden boxes by their mother's cars. One, a little girl of about 12, began to laugh and talk with the children. The boss was very angry, and said, "You can just give up your tin and go home if you're going to play. It spoils all the other children. You either get to work or get out." She stopped playing and very soberly went to work, and when I looked at them some half hour later all 14 were shucking away like little automatons. The boss was also very angry with a Polish woman because she stopped work so frequently to pick up her baby, who was fretful. She said the baby was sick. A Baltimore woman at last turned on the boss and said, "A woman's a human being, she ain't a dog that you should talk to her that way." The boss said nothing more. He saw the women were getting interested. Once, when I found my oysters bad, I asked a man next to me if I should throw them away. He laughed and said. "Not much. You throw one oyster on the floor and you get a ragging. Every oyster goes in, good or bad. Yesterday we shucked oysters that had maggots in them and they smelled so bad they made everyone sick to their stomachs, but in they went—I hope they won't kill nobody." I worked all afternoon, and at 5 o'clock I took my tin over to have my oysters weighed. The woman weighed them and said, "Where do you live?" I said, "Biloxi." She said, "You don't, you lie. You live up there at Irish Annie's. I saw you with her." I said, "Yes; I stayed there last night, but I'm going to live in Biloxi. Annie only took me in for the night." Then she weighed my oysters again, threw a lot of them out of the tin onto the shelf outside the window, tossed me a nickel, and handed me my tin. With my dirty left hand I scooped the oysters that were overweight back into my tin. (I had been watching, and this was the way everyone else did.) One girl with a frightfully sore hand, just raw with festering sores, brushed hers back into her tin the same way. A little after 5 I went back to camp and told Annie I was going to get a room in Biloxi, packed my suit case and took the street car.

On Monday, March 30, there were not so many children working at B. Canning Co. as on Saturday. There were more before school hours; some left to go to school. The children work before school, after school, and on Saturday at these canneries. They left at 10.30 in the morning. There were 18 children—12 boys and 6 girls—all under 12 years old.

The children told me that some of the other children had been working early in the morning, but had left to go to school, and that if there was plenty of shucking in the afternoon they would probably return when school was out. I talked with many people at the factory and saw them unloading a boat of oysters that had been out of the water for 10 days. I asked the men how long oysters could be out of water and remain good, and was told four days. The woman in charge said, "They will stay in that water until the water in them runs perfectly clear." From the vats they were taken by a man in buckets to the sorting room, where girls sorted according to grades. I watched the sorting for a long time, but saw no oysters discarded. This room was wet and sloppy, but perfectly clean. The girls sorting were town girls of about 18 years of age. These oysters were passed on to another table, where girls, also about 17 and 18 years old, were putting them in cans, allowing 4 ounces of oysters to a can. They seemed experts in gauging the right weight, for very rarely did they have to either take out or add to those first put in the can.

A little night school in the neighborhood shows 70 names enrolled of children between the age of 6 and 15 years, and in the winter had an average attendance of 60 children. The only children admitted to this school are those who work in the canneries and can not go to school in the daytime. The teacher in the public school on Point Cadet said: "The majority of the children in the school are the so-called 'Bohemians,' at least 200 of them, and all of those 7 years old and over worked in the canneries at some time during the week, before school, after school, and on Saturdays." One teacher said—she had the second grade—

"In the fall when the children first come back to school their hands are just raw from shrimp picking. Sometimes it is impossible for them to hold their pencils. There ought to be a law to keep them out of the canneries." I left the school and visited some of the camps, but found no one at home. Saw a little girl with a tin can full of something. Asked her what it was. She said, "Oh, that is the alum for my hands. I picked the shrimp, and they are very sore." Her hands were a mass of little festering sores. Her name is Margaret C. She lives at 324 O Street, Biloxi. She is not quite 11 years old; has been in this country two years, but never went to school here. Speaks broken English. Her father died in Austria and she came to America to live with her aunt in New Orleans. She has been working in the canneries ever since she came to America. The aunt keeps a little store in a side street near the cannery.

There were only 18 children at work. One was a little Polish child. They said he was only 3 years old. He couldn't hold a knife, so was shucking with a stick. (Couldn't get his name; he said, "Just Mike.") One little child about 2½ years old—30 months, his mother said—was sitting in a car of oysters while his mother worked. His face, ears, and neck were a mass of raw sores. I asked his mother what caused it. She shrugged her shoulders and said "Mebbe the shrimps. I don't know. I think so, mebbe. I think it is so—shrimps." Her name was Mary K., and she lives in what is known as the old camp. She has no home in Baltimore; just has a room when she is in town. She goes to the strawberry country from here, then to tomatoes, and back to oysters again. This is her only child. The husband shucks the oyster shells in the factory. The same day I saw another girl of 14 years of age with ears, neck, and back of her head sore; she said she picked shrimp and it began on her hands first.

I talked with some men unloading boats regarding wages. One was very indignant and said, "A few weeks ago we made nothing on one trip; had been out 12 days, and when we got back our boss fined us $12 for having brought in oysters that were too small. So we lost everything on that trip and $3 apiece fine." When we left the cannery at 11.30 the people were going off to get dinner.

Rose A.: Worked down at Biloxi this year. Made from 30 to 40 cents a day, sometimes working all day long. Worked on shrimp and oysters. Worked sometimes from 2.30 in the morning till 5.30 in the afternoon, and sometimes, when there were a great many shrimp in the boxes, they took her out of the picking room and put her in to packing, where she would work until 11 o'clock at night. Five Sundays during March and April of this year she worked on shrimp from 2 a. m. until 11.30 p. m. One week she began work at 9.30 a. m. Saturday and worked till 3.30 Sunday morning; went back to work at 9 30 and worked till 2.30. The following week she went to work at 2 o'clock on Tuesday morning and worked until 11.30 p. m. on shrimp and went back at 2 that morning, and at 2.30 in the afternoon of that day she was so tired, and so were the other girls in the factory rooms, that they sat down on the boxes that held the cans. She said she was so tired she thought she would die. The proprietor of the cannery walked through, found them sitting down, and was furious. Said he would go and buy the girls some rocking chairs, if that was what they came to the packing house to do. "And then he fired us," said Rose. The children told him how tired they were; said they had been working since 2 o'clock two days before. He said, "What of it; don't I work; don't I stay down here for three weeks at a time and never go home, sleeping on the boat sails in the other room?" "But," said Rose to me, "when Mr. L. gets through canning in the busy season he can go off in his automobile and take a rest, but we poor girls have to go away out in the berry fields or the tomato country if we want to get money enough to keep, because we never do make anything to take home with us from the oyster country. We were lucky this year to buy food enough to give us something to eat on the train. We started at 9.30 on Saturday morning and we didn't get in till 3.30 on Sunday morning, and that whole last week down there we lay idle."

The canneries stopped work on Saturday and we didn't start home until the following Saturday. We just had to buy our food out of the little money we had left to go home with. One woman with a baby 7 months old was put off the train at Pass Christian, 27 miles away from Biloxi, where she had been working. When the boss came through to give the tickets he wouldn't give her one; said she hadn't worked enough. When the baby was sick with pneumonia she had to stay away from work about six weeks, so they wouldn't pay her way home. Her mother wouldn't let her stay alone, so she got off the train, too, and asked a neighbor woman to bring the other two daughters, one 10 and one 13, home to their grandmother. The boss tried to put another young woman off the train—she was only 20 years old—because she didn't work as much as they thought she should. She was sick and stayed away a month. The boss was mad at her because she got mad when he said something insulting to her, and so he was going to do her out of a ticket and put her off, but a young man who knew her gave her his ticket and said, "You take this ticket and go on home; I'll get off here. It is easier for a man to get a job than a woman, and I can work my way home some way and you can't." So that is how she got home. One girl who stayed home when her baby was sick was told by the boss, "There is no use staying home when the baby is sick. Bring it down to the factory and put it in a box; it will take care of itself"; and because she didn't do it she was left down there.

MEXICAN GULF AND ATLANTIC COAST CANNERIES.

Although the vast oyster beds in Chesapeake Bay have made Baltimore, Md., for years the center of the oyster-canning industry, of late years the far Southern States on the Gulf coast have been adopting the trade, and in 1905, according to the special report of the census on manufactures, Mississippi led all other States in the value of oysters canned.

During the first week of April of this year (1914) there were 13 canneries on the Gulf coast putting up cove oysters, all of which (with the exception of one, i. e., Dunbar, just across the State line of Louisiana) were in Mississippi. This State is unquestionably the center of the cove-oyster canning trade, and each year finds new canneries along its coast. Biloxi, the oldest of the canning towns, has 9 canneries this year as against 5 of last.[1] The oyster commission of Alabama said canneries are on the increase on the Gulf coast in all the States, where the coast line is not limited or largely used for shipping purposes.

For the past two years the seasons have been bad (but the trade is now growing better) owing to the floods of two years ago, at which time such volumes of fresh water swept into the Mississippi Sound and the Gulf as destroyed the oysters, which require a certain amount of saline solution to preserve life. This was particularly disastrous in Louisiana; some of the canneries have not been opened since.

The reefs destroyed at that time were immediately replanted and have prospered. These will come into harvest next season. (The Mississippi Conservation Commission has already ordered the opening of what is known as the Pass Christian Reef.)

All of which means next year the Gulf coast canneries will be running full speed for the entire season with an increased number of workers. All of the Gulf coast canneries putting up cove oysters also can shrimp in season. (The Atlantic coast canners do not.) A few of them also can fruit and vegetables in season. One cannery in Louisiana until two seasons ago, when its oyster reef was destroyed by floods, put up oysters in the fall and winter, with occasional days of shrimp canning, when May brought the ripened figs.[2]. Those were canned, and were followed by berries and vegetables until shrimp came in full season, lasting through August into the early season for oysters in September. This, of course, meant pretty steady employment for its workers—women and children—throughout the entire year, and the colony of foreign workers imported each fall as help have become permanent residents in the camps of this particular canning company. Oyster canning is distinctly a seasonal trade. It opens in the end of September or beginning of October and closes in the end of April or May, the hours of work and amount of wage made by the workers depending entirely upon the supply of oysters and their size. Most of the canners own their own boats, but the amount of oysters harvested depends on the weather and the winds. A storm or a calm may cause work in the canneries to cease altogether for hours or days, or, on the other hand, a number of full boatloads coming in may cause work to begin as early as 3 o'clock in the morning and to continue into the midnight hour.[1]

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[1] List of canneries operating this year on cove oysters, given by oyster commissioner of Alabama: Louisiana, 3 operating this year on oysters, 1 operating on shrimp; Mississippi, 12, all operating this year on oysters and shrimp; Alabama, 1, not operating now (April); Florida, 2, not operating now (April). Cove oysters are so called because originally the oysters sold to the canners were gathered by various oystermen in the surrounding coves. Nowadays those oysters used in canning come from the same beds as the oysters known as raws. Cove oyster now is a trade name; simply means a steamed oyster.

[2] The big shrimp season is during the hot weather of July and August, during which the canneries run sometimes from 4 a. m. to 12 at midnight. During the early spring and winter there are occasional catches of shrimp. It depends entirely on the temperature of the water.

The difficulty of obtaining sufficient help in the cannery communities has led to a system of importing families each season from Baltimore and its vicinity. Early in the fall a man from a canning center goes up to Baltimore and engages as many men as he thinks desirable who are familiar with and well known to the laboring-class communities. These men or agents, known as "bosses," are usually Polish or Austrian. They secure the heads of families willing to go down to the cannery country, always with the understanding that wives and children are to be brought along. The men are to work at dredging for oysters and the heavy work in the canneries, such as pushing cans, removing empty oyster shells, etc., the women and children to shuck the oysters and pick shrimp when necessary.[2]

Special trains are engaged for the transportation of such help. During the early part of 1913 one canning company alone took 15 carloads of people down to Mississippi. The trip takes anywhere from 42 to 50 hours, and is accomplished in the ordinary day coach. Two seats are allotted to a family, unless it is unusually large, then the boss by special dispensation gives three seats. The workers receive no compensation whatever for the two days spent in traveling and are entirely responsible for their own food, which is cold stuff carried in their lunch baskets. The only hot food they can get is tea, which is made with hot water obtained from the engine. Condensed milk is carried for the babies and is prepared with hot water obtained in the same way.

NATIONALITY OF WORKERS IMPORTED AS HELP.

All people imported into cannery communities as workers are commonly called Bohemians, because of their itinerant habit of life. As a matter of fact, those imported from Baltimore are of two distinct and widely differing nationalities, i. e., Polish immigrant families, very few of whom speak any English, and native Baltimore families, usually of Irish descent.

Most of the women imported are married, the majority of them young women with growing families. Occasionally, but not generally, we will find young unmarried women living in the cannery camps, and always in such cases one finds they have come in order not to be separated from their families.[3]

All the canneries investigated provide housing facilities for their imported help, and a number owned company stores. The housing facilities varied from ordinary dwelling houses converted into tenement houses—sheltering anywhere from five to eight families—built on purpose to accommodate a number of families, to rows of shacks providing for from 12 to 18 families in separate semiprivate quarters. The general insanitary conditions about these camps is undoubtedly due to three main reasons.

First, a natural obstacle, because the country bordering on the Gulf coast is level with the sea, and there is no natural drainage, making the disposal of all sewage a very costly undertaking. Salt water is struck 13 inches below the surface of the ground.

Second, to a general disregard on the part of the employer of anything relating to the health or comfort of his workers, save where such might eventually affect his food product, namely, all the camps are provided with artesian walls; but if the workers were obliged to drink ordinary water, they would fall victims of the typhoid fever so prevalent in these districts, and the canner's oysters would suffer and his trade eventually be ruined.

Third, that the canneries are usually in districts where inspection by health officers is either unknown or remarkably lax.

The insanitary conditions are undoubtedly intensified by the location of the camps. With few exceptions, they were on or in close proximity to swampy grounds and marsh lands, and were infested with fleas—sand fleas—mosquitoes, and flies. In some cases it was impossible to get in or out of the house without walking through mud ankle deep. The back, side, and front yards were frequently full of old tin cans, refuse, and garbage. Ducks, geese, hens, dogs, cats, and pigs wandered at will not only about the yards, but through any open door. The toilets, built in the back yards, were in frightful condition; some had no doors, while the stench arising from them during the first warm days this spring permeated the entire neighborhood.

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[1] The oyster boats, called luggers in Louisiana and schooners at all other places on the Gulf, are sailing boats depending on the wind for power. Some few are equipped with machine dredges, but the dredging is in the main done by hand.

[2] Maryland has a child-labor law which prohibits the working of children under 12 years of age in Maryland canneries, and yet families with many children under this age make a yearly exodus to the southern coast, where they work unlimited hours.

[3] The special report of census of 1905 gives total percentage of married female employees as 30.4.

The roofs of the houses in these camps in many cases leaked so badly as to render them almost uninhabitable in rainy weather. No rent in actual money is charged for these camps, but all workers living in them receive from one-half to one-third less per unit of payment than do workers occupying their own homes or coming in from the outside, and families known as camp families are obliged to go to work each day for the company to which the camp belongs when the whistle blows, save in cases of mothers with very young infants, and they are excused from appearing in the early morning hours, but are expected to be on hand by half past 6 or 7 o'clock. If any of these workers fall ill, or if they become a victim of an accident in the company's employment, the company assumes no responsibility in the caring for them, and the community in which the cannery is operating has to assume the burden of the hospital care, provision for the children, and in many cases the burial expenses. The canneries have, as a rule, five distinct groups of workers, namely—

1. The group living in the company camps, which are: (*a*) Polish imported from Baltimore; (*b*) native Baltimoreans.

2. Residents of the community in which the cannery is situated: (*c*) Native southern stock; (*d*) foreigners who have come in and settled, Austrians and Germans usually; (*e*) native negroes.

The imported help, the foreigners of the cannery community, and the native negroes usually work at the rough, unskilled work shucking oysters or picking shrimp. The native southern stock really work in the sorting, packing, or labeling department.

All canneries begin work at 4 o'clock in the morning, and, if there are many boats in, they sometimes begin earlier, working continuously throughout the day and night, if necessary, until all the fresh food is canned.[1] The shuckers however, rarely work after 5 or 5.30 in the evening, but do pick shrimp later many times, while the sorters, packers, and canners frequently work into the midnight hours.

The mixture of workers has a queer effect upon the workday schedule. The Polish women from Baltimore and the Austrian and German residents in the community go to work with the blowing of the first whistle at 4 a. m., and invariably toil throughout the entire day, with a brief respite, perhaps, at 9 o'clock or thereabouts, when they stop long enough to drink coffee (usually brought in by members of the family to the cannery), and an hour at dinner time.

The native Baltimoreans generally begin work at 6 or 6.30 a. m., and work until closing time. Whereas the native southern stock and the negroes rarely begin work before 7 in the morning, and, unless they are working in the packing rooms, they stop work at 5.

The work done in the shucking shed is rough, dirty, and hard, invariably in difficult surroundings. The work is always done standing, and women work daily standing 12, 13, and 14 hours amid oyster shells, which, in addition to being unstable footing, are very hard on their feet.

CONDITIONS OF WORKROOMS.

The rooms or sheds where the shucking is done are long, low buildings, one story in height, always open at the end facing the water in order that the cars of oysters and shells can come and go. They have plenty of air and light, and are fully equipped with electric lights for the early morning work. The odor from the steaming of the oysters in their dirty shells fills the place with a very disagreeable smell, frequently causing nausea among the women workers during the first week of the oyster season. Later they become accustomed to it. The sheds are very cold during the winter when the fresh wind blows in from the Gulf, but the women rarely complain. This is probably due to the fact that the superintendent has told them that if the shed is closed in it becomes a factory and the children will be unable to work.

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[1] The hours of labor in any cannery largely depends upon the number of boats the cannery owns. Many of them own more than enough to supply a good day's work each day throughout the entire week, and, with the approaching installation of machine dredges, will bring increasing hardship in the way of long hours and night work.

The toilets provided for the workers are of the crudest kind of structure, built over the sea, and I saw no provisions made in any of the shucking sheds for the workers to wash their hands.

The workers are of all ages ranging from grandmothers down. Infants too small to care for themselves are brought to the cannery in baby carriages. Many of the Polish women take theirs down when they first go, as early as 3 and 4 o'clock in the morning. Others are put into little wooden packing boxes with nursing bottles suspended from their necks and are left to care for themselves or to be amused by the children too young to work, who are invariably playing about in the canneries or out on the shell pile, with just an occasional visit from the mother. Occasionally a little one gets cross and frets. Then the mother takes it over to her work; she puts it down on the pile of oysters in her car and goes on shucking. The children too small to work usually play at shucking oysters, and provided with a stick, an old empty can, and empty oyster shells, their play consists of imitating their mothers at shucking. Accidents to children are of frequent occurrence. Falling off of the oyster pile into the sea is a common happening. In the spring of 1913 a little boy of 5 years was drowned in this manner, and during April, 1914, two narrowly escaped drowning. In the shed children frequenty get in front of the cars and have their legs and feet run over, while ugly cuts on the face and exposed parts of the children's bodies show the effects of falling on oyster shells. Children, as soon as they are big enough to hold a knife, are put to work. No record is kept of any worker's time or the amount accomplished. They are free to go and come as they please, and are paid as their oysters are weighed. The row boss usually sees, however, that everyone living in the camp goes to work at least early in the morning of each day.[1]

PROCESS OF WORK AND THE PART WOMEN AND CHILDREN TAKE IN THIS WORK.

The oysters are unloaded from the boats into small steel cars or cribs which run on narrow tracks directly into the steam ovens in the shucking room. Two or three cars are pushed at a time into this steam chest, and the steam is turned on for some 15 minutes, which loosens the shell of the oysters. Immediately a car comes out of the steamer it is surrounded by workers (who usually work by families). There are 12 adults to a car, who remove the oysters from the shell. The tin cans or cups (varying in size from 4 to 5 pounds) are hooked to the side of the car, leaving both hands free for handling oysters. The left hand usually wears a huge white cotton glove (made from canton flannel), while the right hand holds a knife with a small, strong blade. Holding the cluster of oyster shells in the left hand, the knife is inserted into the mouth of the shell. A dextrous twist loosens the shell; the oyster is then cut loose and dropped into the bucket and the shell dropped at the worker's feet. The glove and hands of the worker become filthy after a very few minutes of work. All sorts of covering, from gingham aprons down to huge pieces of burlap bagging, are worn by the workers to protect their clothing from the dirt of the oyster shell, which gets all over them, from head to foot.[2]. When the can becomes full the worker takes it to the window to be weighed. When it is weighed she is paid then and there. No record is kept of how much any worker does or makes. The shells are very hard on the hands, scarring the skin and making ugly little cuts on the knuckles, which become bad and sometimes serious sores if the workers pick shrimp.

Bone felons are of frequent occurrence among the shucking force, some women having as many as two and three in a season. Men, women, and children work at shucking, but women and children predominate, some of the latter being as young as 4 and 5, although children below 7 (the common age for beginning) are not the rule, one side of the room being set apart for them. In some canneries separate cars are set aside and known as "children's cars," which are under the direct supervision of a boss, who sees that they do not stop to laugh or play.

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[1] Row boss is so called because he has charge of the row of houses and raps each family up early in the morning.

[2] The oysters on the Gulf coast are known as lock-mouth oysters and are much harder to open than those from the Atlantic coast.

All the workers have a curious swaying motion while they shuck. They say it is less difficult to stand that way. The children working were of all nationalties. Of those there were fewer in the American families than in the foreign; the Polish and Austrian children were in the majority; the American parents want their children to go to school. There were no negro children at work in the canneries.

WAGES PAID.

It is almost impossible under the conditions of payment to reckon how much a woman can make shucking oysters. It varies so with the size of the oyster and the number of children shucking into the can. It is a common custom in the canneries, if the oysters are running large, to add 2, 3, and even 4 ounces to the weight per unit of payment, whereas the case is never reversed when the oysters are small. Nothing is ever deducted from the weight per unit of payment.

THE ATLANTIC COAST CANNERIES.

With the exception of Maryland, there are few canneries on the Atlantic coast, and those are mainly on sea islands off South Carolina. The conditions of cannery work and life are the same as in the Gulf canneries, save the oysters are much dirtier. The help is imported from Baltimore. Most of them are Polish. The canneries are smaller plants, as a rule, than those in the Gulf. The largest, I was told was at Port Royal, where they have from a hundred to a hundred and ten workers. The housing condition is bad. The Atlantic canneries differ in that up to the current year they have confined their work to oysters. The Port Royal canner said he was going down to Biloxi, Miss., this year to learn how to can shrimp, in order to add that to his work next year.

ATLANTIC COAST CANNERIES.

Beaufort, S. C.; Port Royal, S. C.; Bluffton, S. C. (two there).

A STATEMENT BY THE LEGISLATIVE COMMITTEE OF THE AMERICAN FEDERATION OF LABOR—ARTHUR E. HOLDER, GRANT HAMILTON.

From the inception of the organization of the American Federation of Labor it has exerted its influence to abolish the labor of children below 16 years of age. It has also advocated that children above the age stated be prohibited from employment in certain hazardous, unhealthful, or questionable occupations until they arrive at the age of 21. It has been said that employment was the "mother of virtue" and was utilized in the past to do away with possible prejudices against employing children.

Another argument put forth for the employment of children in the early history of this country was to the effect that with the employment of children able-bodied men would not be drawn from the fields of agriculture and other work of similar character and transferred to the factory. Historically the problem of child labor has been the subject of both political and economic discussions. It must not be forgotten that public opinion in reference to the employment of children has undergone a change during the latter part of the nineteenth and the opening of the twentieth centuries, but it is also true that this changed public opinion has been slow, although there is an ever-increasing number of associations and individuals bending their efforts toward the elimination of this great evil.

Connecticut was the first State that enacted child-labor legislation, which passed in 1823. The bill was drawn by a manufacturer and, while nothing should be said to detract from the meritorious idea, it was a reflection of the ideas by an aristocratic manufacturer. The law provided that the proprietors of manufacturing establishments should cause the children, whether bound by indenture, by parole agreement or in any other manner, to be taught reading, writing, and the first four rules of arithmetic, and also that due attention should be paid to their morals, and they were required to attend public worship regularly. The law further provided that the selectmen of the various manufacturing cities appoint a committee charged with enforcing the act. In other words, to visit the factories and report to the county court if the employers neglected their duty. History records that this legislation was not enforced.

Government reports show that the second child-labor legislation occurred in Massachusetts, somewhere about 1836, and the bill passed by the State legislature provided that no child under 14 years should labor in any incorporated manufacturing establishment unless it had attended school at least three months of the year. The act as finally passed raised the age to 15 and applied to any manufacturing establishment, whether incorporaned or not. The penalty for violation was $50, to be covered by indictment for the use of the common schools in the towns where the offending factory was situated. It will be observed that the compelling idea behind this legislation was to provide an opportunity where children might receive instruction rather than the antipathy to the labor of children.

In the history of Rhode Island, it is found that while this State discussed the question of child labor wholly from the standpoint of education, no constructive legislation was passed by the legislature until 1840. This legislation provided three months schooling for children under 12 years, in the year before employment. As was to be expected, it was difficult to secure appropriations for schools in manufacturing villages. It will also be observed that this act was materially weakened from the Massachusetts legislation referred to.

Vermont, New Hampshire, Maine, New York, New Jersey, and Pennsylvania followed in enacting legislation.

The latest available data throws a vivid side light upon the progress made by the American Federation of Labor and other associations and individuals interested in the elimination of the child-labor evil.

There are 28 States that have enacted laws governing the employment of illiterate children.

Forty-three States and the District of Columbia have enacted laws requiring certificates to be issued and registers to be kept concerning the employment of children in factories, mines, stores, etc.

Three States have enacted laws establishing schools requiring the compulsory attendance of children between the ages of 14 and 16, working under permit.

Forty-five States and the District of Columbia have enacted laws establishing an age limit for the employment of children.

Forty States have enacted laws forbidding the employment of children in certain undesirable occupations.

Twenty-four States and the United States have enacted laws regulating or prohibiting the employment of children.

Forty States and the District of Columbia have enacted laws fixing the hours of labor for children.

The United States Department of Labor, Bureau of Labor Statistics, in Bulletin No. 175 gives important statistics relative to the employment of children and the income from their labor. This bulletin is devoted to a summary of the report on the condition of woman and child wage earners in the United States. The information secured by the investigators is of such vital interest that the sections relating to certain phases of the employment of children are hereby given as they appear in the bulletin.

The family studies brought out also some facts as to the employment of children. In every State visited the employment of children of 14 and 15 was legal and customary. The extent to which in the families studied children of these ages were at work is shown by the following figures:

Per cent of families having children 14 and 15 years of age in which such children were at work, and per cent of total children 14 and 15 years of age at work, by industries.

Industry.	Families having children 14 and 15 years of age.		Children 14 and 15 years of age.	
	Total number.	Per cent in which such children were at work.	Total number.	Per cent at work.
Cotton:				
New England group	539	87.2	624	83.8
Southern group	960	96.9	1,072	96.2
Men's ready-made clothing	865	75.0	958	71.8
Glass	1,681	92.9	1,894	89.5
Silk	1,258	91.7	1,437	89.6

Since these families were selected on the basis of having at least one woman or child gainfully employed, it is possible that they do not represent conditions among wage earners generally; but they do unquestionably show that there are large numbers of wage earners among whom it is a matter of course that children should go to work as soon as the law permits and an opportunity is found. The contrast between the southern group of cotton workers and those in the other industries studied is marked. No other group shows either as large a proportion of families putting their children in this age group to work or as large a proportion of the children at work. The contrast between the northern and southern cotton workers in this respect suggests that the laws restricting child labor in the North or the public sentiment back of those laws have had some effect in keeping children from being put to work, even when they have reached the legal age. The extent to which the children are at work does not seem to be wholly a matter of ecenomic necessity, for the garment-making families, who had the lowest average incomes of any group studied, showed also the smallest proportion of children at work. And it is to be hoped that it is not a matter of race since the southern cotton workers were of pure American stock, while the other groups were very largely foreign.

INCOME FROM CHILDREN AT WORK.

The proportion of the family income in each group contributed by the children of 14 and 15 was as follows:

	Per cent.
Cotton:	
New England group	18.7
Southern group	22.9
Men's ready-made clothing	14.2
Glass	18.9
Silk	16.6

CHILDREN UNDER 14 AT WORK.

The employment of children under 14 presents a very different question, since in most of the Northern States it was illegal, while in the Southern States it was permitted. Hence the figures concerning it do not show the attitude of the northern families themselves, as in the case of children of 14 and 15. The following figures show the extent to which children under 14 were at work in the families studied:

Per cent of families having children under 14 years of age in which such children were at work, and per cent of total children under 14 years of age at work, by industries.

Industry.	Families having children under 14 years of age.		Childern under 14 years of age.	
	Total number.	Per cent in which such children were at work.	Total number.	Per cent at work.
Cotton:				
New England group	(1)		1,748	2.9
Southern group	(2)		4,145	34.5
Men's ready-made clothing	1,544	3.6	3,979	1.5
Glass	1,646	10.9	4,768	4.1
Silk	1,459	35.1	4,470	11.7

---

[1] In the New England group 360 families had children 12 and 13 years of age, and in 46 of these families (12.8 per cent) such children were at work; 518 families had children under 12, and 2 of these (0.4 per cent) such children were at work.

[2] In the southern group 923 families had children 12 and 13 years of age, and in 865 (92.8) of these one or more such children were at work; 1,161 families had children under 12, and in 399 (34.4 per cent) of these one or more such children were at work.

The southern group of cotton workers and the silk workers are the only groups in which children under 14 were employed to any great extent. Among the cotton workers a considerable proportion of such children were illegally employed; among the silk workers practically all.

ANNUAL EARNINGS.

The importance to the family of the earnings of children under 14 is shown by the following figures:

Number of children under 14 years of age at work, their average annual earnings, and per cent such earnings are of net family income, by industries.

Industry.	Number of children under 14 years of age at work.	Annual earnings of children under 14 years of age at work.	
		Average.	Per cent of net family income.[1]
Cotton:			
New England group	50	(2)	(2)
Southern group	1,428	(2)	(2)
Men's ready-made clothing	55	$78	10.0
Glass	197	119	15.7
Silk	416	117	13.4

[1] Based on incomes of families in which children under 14 were at work.

[2] In the study of the cotton industry the children under 14 were divided into two groups, those 12 and 13 years old and those under 12. Those 12 and 13 years old in New England numbered 48 and earned an average of $153 per annum, or 14.3 per cent of the net family income; in the South this group numbered 952 and earned an average of $160 per annum, or 17.6 per cent of the net family income. Those under 12 in New England numbered 2, earning an average of $22 per annum, or 3.6 per cent of net family income; in the South this group numbered 476, earning an average of $114 per annum, or 13.5 per cent of net family income.

The children's earnings, it will be noted, form from one-tenth to something over one-sixth of the family income. Yet in themselves the earnings are small, and their importance is due more to the low average incomes of the families than to the real value of the children's earnings. The low average, however, includes some comfortably high incomes, and in a number of cases it was apparent that the work of the children was not due to absolute necessity.

The American Federation of Labor was successful in presenting sufficient persuasive argument to the Members of the Fifty-ninth Congress to institute a commission for the purpose of making an official investigation of women and children in the various industries of the United States. As a result of that investigation, valuable data was secured and made available to all of the advocates of the abolition of child labor. (Sen. Doc. No. 645, 61st Cong., 2d sess.)

In conclusion, the American Federation of Labor has dealt with the subject of child labor at practically every convention held during its existence, and it stands committed to legislation that will effectually eliminate the labor of children in industry. In normal times there is always to be found a sufficient number of adults desiring employment to manufacture the products demanded, and the American Federation of Laobr has joined with all progressive elements of society for the purpose of seeking legislation that will effectually stamp out the employment of children.

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NATIONAL CANCER ACT OF 1974

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BEFORE THE

SUBCOMMITTEE ON HEALTH

OF THE

COMMITTEE ON

LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

S. 2893

TO AMEND THE PUBLIC HEALTH SERVICE ACT TO IMPROVE THE NATIONAL CANCER PROGRAM AND TO AUTHORIZE APPROPRIATIONS FOR SUCH PROGRAM FOR THE NEXT THREE FISCAL YEARS

JANUARY 30, 1974

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U.S. GOVERNMENT PRINTING OFFICE
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NATIONAL CANCER ACT OF 1974

WEDNESDAY, JANUARY 30, 1974

U.S. Senate,
Subcommittee on Health of the
Committee on Labor and Public Welfare,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:18 a.m., in room 4232, Dirksen Senate Office Building, Hon. Edward M. Kennedy, chairman of the subcommittee, presiding.

Present: Senators Kennedy, Pell, Nelson, Javits, Schweiker, Dominick, Beall, and Taft.

Staff members present: LeRoy G. Goldman, professional staff member, and Jay B. Cutler, minority counsel.

Senator Kennedy. The subcommittee will come to order.

The national cancer program has been in progress for 2 years. Much has been accomplished. But much more remains to be accomplished.

Some major advances have been recorded in 1973. The first artificial gene has been created with potential for life function. A tentative but hopeful approach to immunotherapy for acute leukemia patients has been developed. The first evidence that some form of advanced non-Hodgkin's lymphoma can be controlled for long periods.

Survival of cancer patients overall has almost doubled since the early 1930's. Today, one out of three persons with cancer will be alive 5 years after treatment.

However, as important as these advances have been, an estimated 650,000 new cases will be diagnosed and more than a third of a million Americans will die in 1974.

Unless more progress can be made, cancer will continue to strike one in four of all Americans.

Before the Cancer Act became law, there were only three comprehensive cancer centers in the Nation—two in New York and one in Texas. The act permitted the creation of 15 new centers, of which nine have now been funded, and the other six will be funded by June. But this is not enough.

The Nation needs between 30 and 35 comprehensive centers. No American should be denied cancer treatment simply because of where he may live.

Two of the principal killers are lung cancer and breast cancer. The annual toll for lung cancer is about 75,000 and breast cancer takes the life of one American woman every 15 minutes.

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I am, therefore, gratified that the cancer program is making a major effort in both of these areas.

Essentially, I believe this program is working well.

I order a copy of the bill be printed in the record at this point.

The 3-year extension which Senator Javits and I introduced does substantially increase the authorization levels for the program. It also removes the legislative limitation on the number of comprehensive centers which may be funded.

[The text of S. 2893 follows:]

93D CONGRESS
2D SESSION

S. 2893

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 1974

Mr. KENNEDY (for himself, Mr. JAVITS, Mr. CRANSTON, Mr. EAGLETON, Mr. HATHAWAY, Mr. HUGHES, Mr. MONDALE, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. WILLIAMS) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

---

A BILL

To amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next three fiscal years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Cancer Act Amendments of 1974".

SEC. 2. Section 402(b) of the Public Health Service Act is amended—

(1) by striking out "in amounts not to exceed $35,000" in paragraph (1) and inserting in lieu thereof

"if the direct costs of such research and training do not exceed $35,000, but only"; and

(2) by striking out "in amounts exceeding $35,000" in paragraph (2) and inserting in lieu thereof "if the direct costs of such research and training exceed $35,000, but only".

SEC. 3. Section 407 (b) (7) of the Public Health Service Act is amended by striking out "where appropriate".

SEC. 4. Section 408 (a) of the Public Health Service Act is amended by striking out "fifteen".

SEC. 5. Section 409 (b) of the Public Health Service Act is amended by striking out "and" before "$40,000,000" and by inserting before the period at the end thereof a comma and the following: "$50,000,000 for the fiscal year ending June 30, 1975, $65,000,000 for the fiscal year ending June 30, 1976, and $85,000,000 for the fiscal year ending June 30, 1977".

SEC. 6. Section 410 of the Public Health Service Act is amended—

(1) by striking out "fifty" in paragraph (1) and inserting in lieu thereof "one hundred";

(2) by striking out "and" at the end of paragraph (7);

(3) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(4) by adding after paragraph (8) the following new paragraph:

"(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the national cancer program."

SEC. 7. Section 410C of the Public Health Service Act is amended by striking out "and" before "$600,000,000" and by inserting before the period at the end thereof a semicolon and the following: "$750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30, 1976; and $985,000,000 for the fiscal year ending June 30, 1977".

Senator **Kennedy**. At the end of my statement, I will insert into the hearing record an appendix which further amplifies the nature of the cancer problem and the progress of the cancer program.

Finally, I want to just make a brief reference to the remarks the President of the United States made when we in the Congress were considering this legislation in 1971. The President stated:

> This, however, will differ from other programs in a very important respect. This program I have asked be the one program within the National Institutes of Health and within the whole health establishment of the United States that is independently budgeted and that is directly responsible to the President of the United States.

Truly, this has been a unique feature of this cancer program. And I am most interested to have a detailed progress report from the witnesses today on how this has worked and whether this mechanism, if it has been successful, might possibly be utilized for other health programs.

[The appendix referred to follows:]

APPENDIX TO ACCOMPANY THE OPENING STATEMENT OF SENATOR EDWARD M. KENNEDY

"Cancer" is a term applied to more than 100 clinically distinct diseases which kill someone in the United States every 1½ minutes. In 1973, it was estimated that 642,000 Americans will become new cancer cases, 1,310,000 Americans will be cancer patients and 350,000 Americans will die of cancer. The annual cost of cancer is about $18 billion, which cannot measure the incalculable suffering of victims, their friends and families.

Cancer is a widespread biological phenomenon with different incidences, appearances and functioning. It is induced by widely different chemical, physical and biological agents, most of which are unknown. Cancers have many similarities to the host tissues from which they originate. This makes early diagnosis more difficult than with infectious diseases caused by organisms which the body recognizes as foreign to the host tissues. A major effort of the national cancer program is to develop tests which can identify the presence of small numbers of cancer cells with a reliability similar to that of well-known erologic tests for bacterial diseases.

In the early stages of cancer there may be relatively few cancer cells among billions of normal cells. The best chances for curative treatment are at this stage because the balance of forces is in favor of the patient and a skilled therapist. Unfortunately, however, most patients do not seek medical attention until their initial cancer has progressed by abnormal growth and destructive invasiveness to establish new cancerous growths (metastases). If untreated, cancers usually are fatal. However research supported by the National Cancer Institute has developed effective therapies for curing or controlling 10 forms of advanced cancer that were invariably fatal a decade ago.

Cancer causation involves many interrelated factors: heredity, exposure to a variety of agents, singly or in combination and at various doses and routes of administration; host factors that produce different resistences to different agents and different means of handling the many agents (host metabolism, hormonal patterns, immunological responses of the host). Epidemiological data, particularly in occupational settings, have clearly implicated approximately 22 chemical agents in human cancer causation; about a thousand chemicals are now known to induce cancer in animals.

In the early 1900's few cancer patients had any hope of cure. The 5-year survival rate in the late 1930's was about 1 in 5. Ten years later it was 1 in 4 and today the figure is about 1 in 3. This means that roughly 55,000 patients are being saved each year. The immediate goal of cancer control in this country is to save 321,000 lives a year, or half of those who develop cancer. On the basis of 5-year survival, about 224,000 Americans will be saved from cancer this year. About 1,500,000 Americans are alive and free of cancer 5 years after treatment. An additional 1,000,000 cancer patients diagnosed and treated within the last 5 years will live to join these ranks.

Although these improvements in cure rates are impressive and gratifying, the vastly complex nature of cancer requires a coordinated biomedical research effort of unprecedented dimensions. Many methodologies and approaches must be used to solve problems and gain significant new knowledge. Cancer is a chronic disease process, with causation and development extending over several years in most patients. In fact, with several occupational cancers, the period of exposure to the causative agent occurs about a decade prior to the diagnosis. This long time span makes it difficult to evaluate research findings and new methods of prevention, diagnosis, and treatment.

Since its creation in 1937, the National Cancer Institute has been the primary agency through which the Federal Government has sought to marshal biomedical research toward the goal of controlling cancer. The activities of the Institute have been directed toward providing, through research, improved means for the prevention and diagnosis of cancers in man, and the cure and rehabilitation of those cancers that have not been prevented.

The National Cancer Act of 1971 rested on the conviction that medical and scientific understanding of cancer had reached a level where sustained pursuit of new scientific leads could advance national capacities to prevent, diagnose, and treat cancer. The act stipulated that an intensified and coordinated national program would be needed to quicken the pace for developing the means to bring cancer under control.

The National Cancer Act gives the National Cancer Institute the responsibility for organizing this complex undertaking and for channeling the resources needed for this program. The act specifically directs the director of the Institute to "plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the research institutes, and other Federal and non-Federal programs." This mandate includes support for cancer research in industry and in other countries outside the United States.

To speed the translation of research results into widespread applications, the act directs the establishment of a cancer control program to demonstrate to both the medical community and general public the applications of the latest advances in cancer prevention and control.

The act further directed the Institute to provide supporting resources for the national cancer program. These include:

Collection, analysis and dissemination of all data useful in the prevention, diagnosis and treatment of cancer, including establishment of an international cancer research data bank.

Continuing support of appropriate manpower training programs in fundamental sciences and clinical disciplines.

Support of the large-scale production and distribution of specialized biological materials and other chemicals and drugs for research.

An overall strategy for the national cancer program has been developed, based on a consensus among Federal and non-Federal clinicians and laboratory scientists about the direction, content and pace of the research program. The strategy and plan for the national program will be revised regularly as new information and concepts flow from the laboratory and clinic. The overall strategy involves the systematic sharing of cancer information by public and private agencies throughout this country and abroad. It requires continued assessment of resource needs and logistical planning to meet those needs. In some cases, it necessitates the redeployment of existing facilities, the rapid evolution of new kinds and combinations of research support, the reassignment of science management responsibilities, and the development of new mechanisms of technological transfer and information retrieval and application.

The national cancer program plan includes a strategic plan and an operational plan. The strategic plan, developed with a broad spectrum of advice from the scientific and medical communities, presents the major national goal, objectives, program strategy, implementation strategy, and estimated resources necessary to achieve the objectives. The operational plan, which is nearing completion, will include more detailed information concerning plans for specific research programs to implement the strategic plan.

A preliminary outline of the national cancer program plan and the research strategy was developed by the National Cancer Institute with the advice of the National Advisory Cancer Council. Then, in a unique event in the history of biology and medicine in this country, 250 laboratory and clinical scientists met in a series of 40 planning sessions between October 1971 and March 1972 to develop a scientific and operational foundation for the national cancer program. The resulting strategic plan was reviewed by the President's Cancer Panel, the National Cancer Advisory Board, the director and staff of the National Institutes of Health, National Cancer Institute staff, the Association of American Cancer Institutes, the American Association for Cancer Research and the Institute of Medicine of the National Academy of Sciences.

The goal of the national cancer program is to develop means to significantly reduce the incidence of cancer in man and the suffering and death from cancer. The general strategy of the program is to provide for a balanced effort covering the entire spectrum of basic applied and developmental research. The strategy will be implemented through laboratory, field and clinical programs that are judged most likely to produce the information and technology that can be transferred rapidly to medical practice. The program will be "balanced" in the sense that all promising options will be pursued, taking into account the current state of research knowledge, the probability of success of the option, and the impact of the successful completion of the option.

The national cancer program has a mandate that goes beyond the traditional NIH research mission. Simply stated, the program must build effective bridges from laboratory and clinical research to those who can benefit from the results of research—to physicians, their cancer patients, and all at risk to cancer.

CENTERS

The most visible manifestation of bridge building during the past year has been the establishment of a national network of cancer centers demonstrating optimum cancer care at locations selected to provide maximum public and professional access.

In 1971, when the National Cancer Act granted NCI authority to establish clinical cancer research and demonstration centers, there were three preexisting comprehensive cancer centers: The M. D. Anderson Hospital and Tumor Institute, Houston; Memorial Sloan-Kettering Cancer Center, New York; and Roswell Park Memorial Institute, Buffalo.

Some 20.6 million people were within 60 miles of these three centers and 33.7 million people were within 120 miles.

Within the past year, nine additional medical institutions have established comprehensive cancer centers with assistance from the National Cancer Institute. These institutions are:

University of Alabama School of Medicine, Birmingham.

Children's Cancer Research Foundation, Boston.

Duke University Medical Center, Durham, N. C.

Fred Hutchinson Cancer Research Center affiliated with the University of Washington, Seattle.

The Johns Hopkins Medical Institutions, Baltimore.

University of Miami School of Medicine, Miami.

Mayo Foundation, Rochester, Minnesota.

University of Southern California (with the Los Angeles County Department of Hospitals), Los Angeles.

University of Wisconsin Medical Center, Madison.

As a result, today, 53 million Americans are within 60 miles of a comprehensive cancer center and 92 million are within 120 miles.

The distances 60 miles and 120 miles are not arbitrary. Studies show that 60 miles is generally the greatest distance a patient can reasonably drive for daily therapy, and 120 miles is the greatest distance a patient might be expected to travel for consultation without requiring an overnight stay.

By July 1974, at least six additional comprehensive centers will be underway. At that time, well over one-half the population should be close enough for a patient to visit a comprehensive cancer center for a consultation and return home the same day by surface transportation. The country will need 30 to 35 comprehensive cancer centers to serve adequately the entire U.S. population.

Now, I want to describe the particular aspects of my bill. First of all, it is a 3-year extension of the act through June 30, 1977. The bill proposes substantial increases in the two sets of authorization levels for the program. For the basic research and training program, the bill authorizes $750 million, $830 million, and $985 million for the fiscal years 1975, 1976, and 1977, respectively. For the prevention and control program, the bill authorizes $50 million, $65 million, and $85 million for those same fiscal years. The bill also removes the limitation in the act which prohibits the creation of not more than 15 comprehensive cancer centers. I believe the Nation requires 30 to 35 such centers in order to bring high quality comprehensive cancer care within the reach of everyone. I can see no reason why any family should be denied the best possible cancer diagnosis and treatment simply because of where they live. Finally, the bill makes a number of minor though important technical amendments to the Cancer Act.

Senator KENNEDY. This morning, the subcommittee is privileged to receive the testimony of a host of distinguished persons. I certainly hope that, based upon today's testimony, the committee can promptly report legislation to the Senate. Clearly, there must be no hiatus in the continued operation of the national cancer program.

Let me say at the outset that we are delighted to have the distinguished Secretary of HEW here to present the administration's program. He has appeared before this committee on many different occasions, and we want to welcome him back with his associates.

We want to mention, Mr. Secretary, that we applaud the efforts of the administration. The funding of this program has not quite reached the levels that we expected, but I think that the administration deserves credit for giving a sense of priority to this program.

I am also mindful that one of the features that troubled the administration was the prevention and control program, and I think the administration has demonstrated good faith with the Congress in developing active programs in this area.

I think that the work that they have done in combining the Federal Government's participation with that of private organizations, such as the American Cancer Society, is an excellent example of the type of cooperation that can exist between the Federal Government and private associations, and I think you are to be commended for that.

We are delighted that Dr. Rauscher is here, as well, and we want to commend him for the leadership that he has provided.

We will be interested in any comments he would like to make, particularly in the manpower area;

We have just had a chance to review your testimony. There are a few points which we would like to develop with you, and we look forward to your responses.

I want to recognize the Senator from Colorado, Senator Dominick, who has been so interested in the development of this program and the effect of our legislation in this area. He has been enormously interested in this subject matter as he has in so many other health areas. We have benefited tremendously from his participation in all our deliberations.

I will ask him to make whatever comments he would like.

SENATOR DOMINICK. I am just delighted we are holding these hearings. I look forward to listening to the Secretary's testimony.

We in Colorado already have an application in for a National Center for Cancer, and I think we are in a very favorable position as opposed to most of them who are apparently looking for 75 percent Federal support. We have about 65 percent of local already, which leaves us, I think, at a very favorable spot.

We also have an integrated program with our medical school and all the other hospitals and institutions in the area, cooperating in one management under a very skilled cancer expert.

I am looking forward with anticipation to the selection of this as a National Cancer Center.

I think it is worthwhile trying to determine as we go along how many of these are going to be fruitful in terms of having enough expertise to go forward with research on the causes and solutions for the problems which we have. Certainly, this is not any kind of an easy disease. There is no one solution because there are so many varieties of cancer.

As I think I said to the Chairman before, it was my anticipation that by keeping it within the interrelated disciplines that we have in the medical field, that some fellow with a research grant out of some place we never heard of would suddenly come up with a real advance.

At about that time, they discovered the viral materials in Canada out of injections into a goat.

This proved, I think, the necessity for interrelationship between all the various types of medical research which is going on.

I look forward with anticipation to hearing from the Secretary, who has a firm grip on this particular piece of research which is so vital to the health of the American citizens.

SENATOR KENNEDY. Thank you very much, Senator Dominick.

We have been joined by the ranking minority member of the Health Subcommittee, Senator Schweiker. He is a co-sponsor of the legislation, and he has been enormously interested in its development. We want to welcome him this morning. And we are interested in any comments he would like to make at this time.

Senator SCHWEIKER. Thank you very much, Mr. Chairman.

I just want to say I am delighted we have the opportunity to hold hearings on this very important topic. I think they will be constructive.

I know the administration has a strong commitment to the cancer effort.

I am looking forward to hearing the Secretary's statement as well as this committee's consideration of our national interest in this area, which I regard as vital. I look forward for the hearings to unfold.

SENATOR KENNEDY. Senator Javits has a statement to include.

Senator JAVITS. Thank you, Mr. Chairman. The bill I introduced with Senator Kennedy will continue the advances made against the dread killer disease, cancer. This national commitment to the conquest of cancer grows out of legislation Senator Kennedy and I introduced in 1971, which laid the groundwork for the enactment into law of the National Cancer Act of 1971, Public Law 92–218.

This measure we introduced January 24, 1974, will assure that cancer research continues within the NIH and maintains its separate budget—at an increased level of $2,765 million over the next 3 years—to insure the necessary top priority to fulfill our national commitment to launch a meaningful attack on cancer.

I believe that we must continue—at an increased rate—an intensive and sustained program of cancer research on all fronts. We must also seize hold of our scientific insights and advances and exploit them to their fullest potential. We can most effectively achieve this desired goal by moving forward with the establishment of cancer research and demonstration centers of excellence.

Unfortunately, under existing law these centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer are limited to 15. Therefore, the bill I introduced with Senator Kennedy would eliminate this limitation—action which would be in accordance with the recommendation of the National Cancer Advisory Board and the President's Cancer Panel.

Other proposed changes—including the increased funding authorization levels—required by our "National Cancer Act Amendments of 1973" also represent the views of the National Cancer Advisory Board, concurred in by the President's Cancer Panel, and are a matter of public record. I would urge the administration to adopt them as their official recommendation.

I would urge the President to continue his commitment to the conquest of cancer, evidenced by his signing into law the National Cancer Act of 1971 and by his 1971 state of the Union message where he said: "The same kind of concentrated effort that split the atom and took man to the moon should be turned toward conquering this dread disease."

Cancer kills someone in the United States every 1½ minutes. In 1974, 1,310,000 Americans will be cancer patients and 350,000 Americans will die of cancer. The annual cost of cancer to the economy is about $18 billion, which cannot measure the incalculable suffering of victims, their friends and families.

Although the improvements in cancer cure rates are impressive and gratifying—in the early 1900's few cancer patients had any hope of cure, the 5-year survival rate today is about 1 in 3 which means that roughly 55,000 patients are now being saved each year—the vastly complex nature of cancer requires a coordinated biomedical research effort of unprecedented dimensions. Many methodologies and approaches must be used to solve problems and gain significant new knowledge.

We must speed the translation of research results into widespread applications, and demonstrate to both the medical community and general public the applications of the latest advances in cancer prevention and control.

Senator **Kennedy**. Thank you very much.

Mr. Weinberger.

STATEMENT OF HON. CASPAR W. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE; ACCOMPANIED BY STEPHEN KURZMAN, ASSISTANT SECRETARY FOR LEGISLATION, DHEW; CHARLES C. EDWARDS, M.D., ASSISTANT SECRETARY FOR HEALTH, DHEW; ROBERT S. STONE, M.D., DIRECTOR, NATIONAL INSTITUTES OF HEALTH, DHEW; AND FRANK J. RAUSCHER, PH. D., DIRECTOR, NATIONAL CANCER INSTITUTE, NATIONAL INSTITUTES OF HEALTH, DHEW

Mr. Weinberger. Thank you, Mr. Chairman and members of the Committee.

We certainly appreciate your generous comments, Mr. Chairman, and we are, of course, pleased to be here to testify in support of the extension of the programs authorized by the National Cancer Act of 1971, the authorizations for which expire on June 30 of this year.

We are glad that the hearings are being held this early in the year so that there will be no interregnum in the program.

I would like to make a few introductory remarks. Before I do that, I received a letter from the President late last night, and I would like to put that in the record and read it if I might.

It is from the President, addressed to me.

[The President's letter follows:]

THE WHITE HOUSE
WASHINGTON

January 29, 1974

Dear Cap:

It has come to my attention that you will appear tomorrow at Senate hearings called to consider the extension of the National Cancer Act of 1971 when it expires on June 30. I want you to know that I strongly support an extension of this Act with whatever improvements might be made in consultation between the Executive Branch and the Congress.

I continue to have strong and continuing interest in this program. I remain just as committed to the attack on cancer as I was when I signed the original legislation on December 23, 1971. Our joint efforts with the Congress in this area have provided an excellent example of the ability of the Executive and Legislative Branches to work together in dealing with a major problem.

I have followed progress on the attack on cancer carefully. In addition, I have met with Benno Schmidt and other members of the President's Cancer Panel and have reviewed their report and the report of the National Cancer Advisory Board with great interest. It is my feeling that considerable progress has been made in the attack on cancer in recent years and that there is much hope for additional knowledge that can be developed in the future.

That is why I plan to ask for an additional $100 million above last year's request of $500 million for the expanded attack on cancer in the budget that I will be submitting to the Congress next Monday. I realize that this will result in spending over $415 million more for this effort next fiscal year than was available the year I took office, but I think the dual goals of an expanded research effort to find the causes of cancer along with more intensive demonstration and education programs to help prevent and control cancer warrant this support.

I hope you will share my strong interest in this program with the members of the Committee and express my appreciation for their past efforts in enacting the National Cancer Act of 1971.

Sincerely,

Richard Nixon

Honorable Caspar Weinberger
Secretary of Health, Education,
and Welfare
Washington, D.C.

Senator **Kennedy**. I just want to say, Mr. Secretary, that that is a splendid letter, and I think those who are concerned about this program will be very much heartened by the President's strong statement of support for this cause. I do not think that any of us doubted his interest in cancer research, education, and control but I think it is very reassuring to hear his affirmation of support.

I commend the President for making it.

Mr. **Weinberger**. Thank you, Mr. Chairman.

I think it is indicative of the President's very strong support that he is willing to take this rather unusual step of revealing the specific budget request this far in advance of submission of the budget.

He was particularly anxious that this be before you today, and so I am delighted to have the chance to present it.

Senator **Kennedy**. Fine.

Mr. **Weinberger**. The administration and Congress have both been deeply committed to the expanded cancer research program which was augmented in December 1971, when President Nixon signed the National Cancer Act.

Our joint efforts in these areas have indeed provided an excellent example of the ability of the executive and legislative branches to work together in dealing with a major problem.

Cancer, in its more than 100 forms, still constitutes a devastating health problem for the citizens of this country and, indeed, for mankind everywhere. Cancer continues to be the second leading cause of death in this country and the incidence of new cases continues to increase.

Yet the outlook is improving at a steadily accelerating pace. One out of every three persons who now have cancer can expect to be alive 5 years after treatment.

There are 1½ million Americans who have had cancer but are now well. An additional 1 million cancer patients diagnosed and treated in the last 5 years are expected to live to join these ranks.

Much of this progress and the hope for the future is a result of the increased emphasis of the cancer research effort as administered by the National Cancer Institute and the NIH, in cooperation with many private and public groups.

This effort has a dual mission. The first is to speed the development of new knowledge by an intensive and coordinated research effort involving the broad scope of medical, biological, chemical, and physical sciences. The second is to demonstrate the most effective methods for the prevention and control of cancer through dissemination and educational activities.

This demonstration of research results applies the best of our present knowledge and will provide for the rapid application of new information as the national cancer research effort continues to gather momentum.

This dual approach has resulted in much progress, which has brought us closer to the answers we need. This progress has been the product of cooperative public and private efforts in the areas of cancer cause and prevention, detection and diagnosis, treatment, and rehabilitation.

We do not expect that there will ever be a single cure for the many forms of cancer. Instead, scientists and physicians are exploring all promising avenues of research that may lead to identifying the causes of cancer, preventing cancer whenever possible, diagnosing cancer earlier and more accurately, and treating it more effectively.

The host of individual advances all work toward the ultimate goal of preventing the occurrence of cancer, curing cancer when it does occur, and restoring former cancer patients to full productive lives.

To implement these programs more effectively, the National Cancer Institute has recently undergone a major reorganization to assist the Director in carrying out his new and additional responsibilities as Director of the National Cancer Institute.

Mr. Chairman, I would like to submit for the record a chart depicting this organization.

[The chart referred to appears as a fold-in following the last page of this hearing record.]

Mr. WEINBERGER. I would also like to note, as the President has, the significant budgetary increases that have been provided.

In 1971, the National Cancer Institute (NCI) appropriation level was approximately $233 million. Today, the budget level has more than doubled. The 1974 appropriation would provide up to $551 million. The President has requested an additional $100 million above last year's request, as you have just heard, which will raise the requested level in the 1975 budget to $600 million for the cancer program.

National Cancer Institute operations are only one of the avenues of approach. The understanding of the abnormal growth and spread of cancer is inextricably linked to the biology of normal cells.

The National Cancer Act recognized that "the present state of our understanding of cancer is a consequence of broad advances across the full scope of the biomedical sciences." This ranges from the molecular biology of genetic control to the biochemistry of cell membranes, metabolism, and immunology.

The National Institute of General Medical Sciences, the National Institute of Allergy and Infectious Diseases, the National Institute of Arthritis, Metabolism, and Digestive Diseases, along with the National Cancer Institute and the other Institutes, are responsible for exploring these fundamental life processes through support of basic research. These processes are still far from being fully understood.

The administration's support of basic research was almost $400 million in 1973. That was, incidentally, an increase of about $90 million over 1969.

Interaction between scientists of the various institutes in the area of basic biomedical research and with the scientific community at large is intense. The clues to advances in cancer may well come from research done and supported by other institutes just as clues to advances in their areas of responsibility may come from research done or supported by the National Cancer Institute. That is why it is so important to maintain a close working relationship between National Cancer Institute and the other institutes.

Increased participation in cancer research by scientists in industry and in educational and other nonprofit institutions also has been achieved as called for by the act.

In 1971, National Cancer Institute had 1,096 active grants and 252 contracts with educational and other nonprofit institutions, and there were 139 contracts with profitmaking firms.

In 1974, the National Cancer Institute will have an estimated 1,747 grants, 753 continuing contracts and 292 new contracts.

The international scientific community has also been brought into the cancer research effort, as called for by the act.

Research in 19 foreign countries is being supported by National Cancer Institute.

Especially noteworthy is the broad cooperative cancer effort that has taken root through the Joint U.S.-U.S.S.R. Health Agreement of 1972. One result of that agreement is the Telex-line, which I opened by agreement with the Soviet Minister of Health when I was in Moscow last year. That has enabled cancer scientists in the United States and the U.S.S.R. to communicate with each other daily since mid-October.

This system is used to exchange information on such things as the use of drugs, the exchange of scientists, and the shipment of materials.

I would like to describe briefly some of the accomplishments against cancer which have been made.

1. Research results to date.

First, in the research effort there is a new emphasis on developing treatment methods that effectively use combinations of surgery, radiation, and drug therapy.

As a result, half of those children with acute lymphocytic leukemia, a cancer of the blood, now are alive 5 years after diagnosis, when treated aggressively with radiation and a combination of anticancer drugs. Twenty years ago, this disease struck down most of its victims within a few months.

Radiotherapy for the early stages of Hodgkin's disease, another cancer of the circulatory system, produces 5-year survival rates of more than 90 percent. This is compared to a 68 percent survival rate for early Hodgkin's disease 5 years ago. A four-drug combination treatment for advanced Hodgkin's gives a 65 percent survival rate after 5 years, a vast improvement over the survival rate of less than 10 percent 5 years ago.

There are indications that breast cancer may yield eventually to a combination of drugs, surgery, and radiation. Overall 5-year survival rates for this disease, which kills more women than any other form of cancer, have remained near 60 percent for the past two decades. Scientists now have found significant decreases in tumor size when advanced breast cancer patients are treated with any one of six drugs.

Although these observations do not show any lengthening of these patients' lives, they are essential first steps toward improved treatment for breast cancer in the future.

Adriamycin, another experimental drug, has been found to have activity against a broader range of cancers than any other known drug. This includes breast cancer and lung cancer, the leading cancer killer among American men, and now the third greatest cause of cancer deaths among women as well.

Research now centers on developing less toxic forms of the promising drug.

Second, progress has been made in the early detection of cancer.

For example, x-ray examination used in combination with physical examination in studies of mass screening for breast cancer has resulted in a one-third reduction of the death rate from that disease over a 5-year period for the individuals in that study.

Another report in 1973 showed the value of periodic examinations for colon-rectal cancer, the second greatest cause of cancer deaths among both men and women.

A study was conducted of 18,000 persons over age 50 who had over the past 25 years received periodic examinations of the lower colon, and removal of polyps or other pre-cancerous conditions. The rate of colon cancer among these individuals was only 15 percent of that expected if they had not been examined regularly.

Scientists are using immunologic techniques to detect cancer-related chemicals, or "markers," in the blood or urine of persons with cancer. One such marker, called carcinoembryonic antigen (CEA), may be useful in combination with other tests for cancers of the digestive system, particularly colon cancer.

Third, progress in understanding the causes of cancer may lead to its prevention as well.

In this regard, the National Cancer Institute has been able to step up its program to identify cancer-causing chemicals in the environment. Approximately 445 chemicals are now being tested in 2-year and 3-year studies with animals. The tests are underway at 20 laboratories, including the Frederick Cancer Research Center, converted by Presidential mandate from a biological warfare center, at Fort Detrick, Md.

No virus has yet been found to cause human cancer, but scientists are accumulating evidence for some type of association of several viruses with breast cancer, leukemia, cancer of the cervix, and other forms of cancer.

A battery of highly sensitive biochemical and immunologic tests have been developed for this research. These tests have been used to show that at least two suspected human cancer viruses are actually of animal origin, important information which allows National Cancer Institute to direct its resources elsewhere.

Finally, several totally new approaches for cancer control and prevention may ultimately emerge from fundamental research into the life processes of cells.

These include an artificial and potentially functioning gene which has been synthesized for the first time. Years of further research may lie ahead, but scientists hope artificial genes can be used to learn how cancer starts, and how it can be stopped.

Genes direct the synthesis of enzymes that cells need to function. There is new evidence for several enzymes that may appear only in cancer cells. If these enzymes are essential for cancer, blocking the enzymes may kill cancer cells while leaving normal cells unharmed.

Turning to its second thrust, I am pleased to report that the National Cancer Institute, working with cancer centers around the country, has posted an excellent record in delivering research results to the people. We are doing what can be done, now, for the cancer patient and those at risk to cancer.

Nine major medical institutions across the country have established comprehensive cancer centers. The remaining six centers authorized by the National Cancer Act will join these ranks by July 1.

In addition, three pre-existing centers of comparable scope have been strengthened. These centers engage in the full range of basic and clinical cancer research and teaching. They demonstrate and assist other institutions in their surrounding areas to provide the best possible programs of cancer prevention, detection, diagnosis, treatment, and rehabilitation.

Cancer control activities, also called for by the National Cancer Act, have been firmly established. This new program is speeding the application of research advances through relatively short-term projects conducted in and out of major centers such as:

In cooperation with the American Cancer Society, 20 breast cancer detection projects have been established throughout the country. More than 100,000 women will be screened annually to find breast cancers in the earliest possible state—when this leading cause of cancer death among American women is most curable.

A network of more than 100 community hospitals is being established to demonstrate effective new treatments for acute lymphocytic leukemia, Hodgkin's disease, and non-Hodgkin's lymphonas.

Collaboration with the HEW National Clearinghouse for Smoking and Health is aimed at reducing the number of cancers caused by smoking.

Several centers and hospitals are developing model cancer rehabilitation programs that can be replicated in community hospitals as well as in the large centers for cancer care.

The National Cancer Institute also conducts and supports clinical research involving all 36 major forms of cancer. More than 20,000 patients, 1,600 physicians, and 320 cancer centers and other hospitals throughout the country are participating in these programs. This is the frontline where new approaches are being tested for treating cancer, and where results of research being done elsewhere is brought out as soon as possible.

The bill before you would extend the appropriation authorization in the National Cancer Act of 1971 for 3 years, raising the authorization levels to a total of $750 million in 1975, $830 million in 1976, and $985 million in 1977.

The bill would also make certain other changes in the act. It would remove the statutory limitation of 15 new cancer research and demonstration centers. It would raise the authorization for scientific or expert consultants from 50 to 100. It could also expand the construction authority of the act to include construction of nonclinical basic research facilities.

Proposals for change: The administration and this committee are, I believe, in full accord in our commitment to maintain the momentum of the cancer research effort. It has the highest health priority in our administration.

We do disagree on certain of the specifics of the approach to be taken. These differences arise from our need to consider it against the background of the total resources we have for other health research efforts and for other health programs as well.

We agree, as I have stated before, that the forward thrust must be maintained and enhanced. We would, however, ask that the following changes be incorporated into S. 2893.

First, we prefer that specific authorization levels for the cancer control program and for the remainder of the program be deleted in favor of a single authorization, "such sums as may be necessary."

We feel strongly that this language adds additional necessary flexibility to our efforts to manage the resources available for health programs. As noted earlier, the funding requested for fiscal year-1975 represents an increase over that appropriated in fiscal year-1974.

Senator KENNEDY. Mr. Secretary, what has been the reason for the change in the administration's position?

You did not oppose the dollar limitation in the previous legislation.

Mr. WEINBERGER. I do not recall what the position was when the legislation was up 3 years ago. I was not here.

But I do know that recently in a wide number of fields, even beyond health, we have taken the position that it is more flexible and that it is always an improvement simply to authorize "the amount that may be necessary."

The problem is, of course, that authorizations, as in this bill, when they are in specific amounts, run 3 years ahead of the time when the actual appropriation comes along.

We feel that there is no real way of knowing what amount can be appropriated. It may well be that more is necessary than the authorization.

The other problem in other fields has been that very large authorizations have created a lot of completely unrealizable expectations.

The authorization, therefore, has a kind of unrealistic tone that may bear no relationship to what the Appropriations Committee actually appropriates.

Senator KENNEDY. That has not been true with this particular program.

Mr. WEINBERGER. No; it has not been true about this particular program. But it may well be that more would be required in the authorization legislation in 2 years. It may well be that that authorization level would be about what would be appropriated.

It may well be that something below that would be appropriated.

The authorization of a specific amount two, three, four, five years ahead, we feel, is not only unrealistic but adds nothing to the development or execution of the program. We feel it is much better for the authorizing committee simply to say "such sums as may be necessary," and then that would permit the actual amount at that time to be fixed by the Appropriations Committees.

Senator KENNEDY. Then you might as well abolish the authorizing committees. If your account is correct, then we are wasting our time in holding legislative hearings. We should merely allow the Appropriations Committees to do all our work for us.

Mr. **Weinberger.** No; I do not think that follows at all.

I think the authorizing committees have a real function to consider the necessities, dimensions, and details of the programs.

I do think that as long as the Congress maintains the difference between authorization and appropriation and has different committees approaching that same basic dollar amount problem, that it is a better plan for the authorizing committees not to try to fix with any degree of definiteness even the outside limits of the sums this far ahead.

I am told that our request in 1971 was for the same language, "such sums as may be necessary."

Senator **Kennedy.** What information will the Appropriations Committees have that we will not in order to set priorities?

Mr. **Weinberger.** For one thing, they will have far more up-to-date information. They will be considering the appropriation in the context of the year in which the money will be asked for and spent.

We are here this morning talking about programs 3 years distant from now, actually a little bit more than that.

Senator **Kennedy.** What we are concerned with is overall goals. That is the way the legislative system has worked; it permits the appropriating committees to appropriate those funds within the context of the goals of the authorizing Committee.

Mr. **Weinberger.** My point is, Mr. Chairman, those goals cannot be realistically set in dollar terms at this time.

For one thing, we do not know what the inflation factor will be. We have no way of knowing whether $750 million or $850 million is the proper outside limit for a cancer program 2 years down the road.

We do have authorization committees that are supposed to address those more or less specific subjects at that time.

Our suggestion simply is that you allow the authorization of enough money as may be necessary and then let the specific amounts be set. I suggest that it could be an unwelcome limitation, or it could be an unrealistic amount, when we try to fix it at this point this far ahead of the actual year in which it is to be used.

Senator **Dominick.** Will the chairman yield to me?

Senator **Kennedy.** Let me make a final point, and then I will yield.

We will put in the record the authorizing figures for 1972, 1973, and 1974. Let me assure you that should the administration feel it needs more funding in terms of authorization or appropriation I hope you will feel completely free to notify the members of this committee. And I guarantee you that we will get expeditious action.

[The information referred to follows:]

NATIONAL CANCER ACT -- FUNDING HISTORY

(in millions)

	1972		1973		1974	
	Authorization	Appropriation	Authorization	Apprioriation	Auth	Approp
Basic Program	20	0	30	4	40	34
Prevention and Control	400	378.8	500	492*	600	551.2

* 60.0 of this total was impounded by the Administration

Mr. WEINBERGER. We certainly would, Mr. Chairman.

It is our concern that there are so many other members of both Houses involved that the delays involved in securing the increased amounts might be unreasonably protracted.

Senator KENNEDY. We are glad you are thinking in terms of the upper limits, rather than the lower limits.

Senator Dominick.

Senator DOMINICK. I have to say that this position of the administration or of your position—I do not know whether it is all administration or not—violates my fundamental principle that I have here in Congress.

I do not know whether the amounts which Senator Kennedy has in this bill are right or wrong. We can find out some more of this as testimony is given.

If you put in "such sums as may be necessary," what you are doing is to turn over the whole authorization process to the Appropriations Committee. You are, in fact, doing back-door spending.

We would have no idea whatsoever of the total amount of authorization in order to put it into a budgetary procedure. That has been part of my problem with "such sums as may be necessary."

I might say, Mr. Secretary, you are not the first secretary who has asked for this. It happened under President Kennedy and it happened under President Johnson, and I have always objected to it.

I would hate to see us go that route, I really would.

Mr. WEINBERGER. It would not appear on the basis of these two statements, Senator, that there is much danger of that.

Senator DOMINICK. All right.

Senator JAVITS. Would you yield to me a moment?

Mr. Chairman, I would like to know how the Secretary squares his views on "such sums" with the views of the President himself.

He says, in the endorsing letter, that he is going to ask for $500 million.

Now, do you not think, Mr. Secretary, that we ought to advise the Senate from the expertise of the authorizing committee, as we know most about the substantive aspects of it, whether we think that sum is right or wrong, and in order to do that, we have to express a figure of authorization?

Otherwise, we leave absolutely, as Senator Kennedy said, to the Appropriations Committee our function, which is to exercise expertise respecting this particular matter.

I can understand it if you tried to make a case for "such sums after the first year."

We have done that on occasion, although I have always sustained Senator Dominick's position in that, and I would again, but, nonetheless, I can understand it.

But I really do not see how you can ask us to deny to the President the courtesy, the responsibility of our telling the Senate that we do or do not agree with the figure that he himself said he is going to ask for.

Mr. WEINBERGER. Senator, there are two points. First of all, the President's letter asks for $600 million, not $500 million.

Senator JAVITS. Well, whatever the figure is.

Mr. **Weinberger**. And the second point, you would not be denying the President the courtesy of advising the Appropriations Committees of the amount involved if you put into your report that you felt that his request was entirely appropriate.

As far as stating the appropriation limit for this year is concerned, and specifying "such sums as may be necessary" for the other years, I think that would be an acceptable compromise which we could work with you to try to secure.

Senator **Javits**. Thank you, Mr. Chairman.

Mr. **Weinberger**. Continuing with the statement, Mr. Chairman, we do not believe that additional categorical cancer centers beyond the 18 now established (15 new, three strengthened) should be constructed at this time.

We feel that the existing three centers, in addition to the 15 centers authorized in the act constitute an adequate and effective demonstration effort.

All 18 will be on line this year. The National Cancer Institute estimates that 18 centers will provide outpatient care within a 60-mile range to approximately 45 percent of the U.S. population and inpatient care within a 120-mile range to over 80 percent of the population.

With this amount of population covered, these centers can effectively carry out an essential mission of demonstrating the best methods of cancer treatment. To support any more of these centers would move the Federal Government dangerously close to a complete cancer-based treatment responsibility. This role would not only be an undesirable and unnecessary one for the Federal Government, but would create serious equity problems by providing special Federal subsidies on a categorical basis.

We feel that the Federal Government's resources will be used far more appropriately and effectively against this serious health problem by concentration on research and demonstration of effective modes of care, and then provide for the delivery of the research results in the manner in which we are now doing.

The last two proposals in S. 2893 (to delete the words "where appropriate" from section 407(b)(7) and to increase the number of experts and consultants in section 410(1) from 50 to 100) are not needed and would not enhance the operation of the National Cancer Institute. These proposals were suggested by an ad hoc committee appointed by the National Cancer Advisory Board and have not been identified by the National Cancer Institute as creating administrative problems.

In summary, Mr. Chairman, we are pleased with the progress made by the expanded cancer research effort. We firmly support your efforts to continue the program and, with the changes which we have suggested, would be glad to support S. 2893.

I am accompanied this morning by Assistant Secretary Kurzman and by Doctor Edwards, Doctor Stone and Dr. Rauscher, and we would be glad to try to answer your questions, or the questions of the committee.

Senator **Kennedy**. Thank you very much.

I think there is basically a point of disagreement about whether the centers cover the 80 percent of the people that you indicated here.

I am going to leave that to the demographers. But as you are aware the Cancer Institute report points out that 53 million Americans are within 60 miles of a comprehensive center, and 98 million are within 120.

If you accept that the population is about 220 million, less than 50 percent are within reasonable access to the current number of centers that are planned.

Your figures are different, and if you want to provide additional information to support your contention, we will welcome it.

Mr. WEINBERGER. We can each consult our writers and find out who is right.

Senator KENNEDY. Is it primarily then a budgetary consideration that limits your support for additional centers?

Mr. WEINBERGER. No. I think it is more proper allocation of resources that is involved in that. The construction of several additional centers, we do not believe, will advance the effort quite as far as putting more money into the research and the demonstration, and into the delivery of the research results, and even at $600 million, some consideration has to be given to the proper way to allocate those sums.

This represents, I believe, the consensus of view that we have been able to establish, that 18 is a sufficient number, and will do very well considering that there will be these additional ones on the line by July, and that the remaining part of the resources should not go into the construction, or that kind of thing, but should go into more of the effort to find causes and cures and rehabilitation, and that sort of thing.

Senator KENNEDY. Your recommendations therefore, are given within the framework of the $600 million budget figure that is being submitted.

Is this the position of the Cancer Panel?

Mr. WEINBERGER. Mr. Chairman, as far as I know, yes. Doctor Rauscher is here, and he can certainly testify.

Senator KENNEDY. I understand that the Cancer Panel wanted to eliminate the limitation on the number of centers.

Mr. WEINBERGER. They may very well have. What I was trying to present was a consensus, the view of the Department, the National Institutes of Health, and the National Cancer Institute, as to the best way to allocate these resources.

Senator KENNEDY. $600 million?

Mr. WEINBERGER. Yes.

Senator KENNEDY. As I understand it therefore, with a budgetary figure of $600 million, you would not request more centers.

Mr. WEINBERGER. Well, I personally would think, and others are here who can testify to that, if we do not have some kind of basic limitation and basic plan in mind as to what you are going to do, and if you have a completely unlimited figure, the process would develop very shortly into something we are familiar with.

You would have a tremendous amount of pressure to have a center in each of the various districts and States, and it would be perhaps felt that it would have to be granted without respect to scientific needs for that kind of expansion.

So we believe that the number we have in place now, and the limitation, are both desirable bases on which to operate.

Senator KENNEDY. Am I correct that if there is a scientific justification for the new centers, you have no objection to authorizing them.

Mr. WEINBERGER. No, none whatever. We are told, and my belief on the basis of that advice is that the 18, which we will have in place by July, is a sufficient number at this time.

Again, as with other matters of this kind, if there should be any feeling of justification for additional centers to do work that cannot be done at the 18, we would not have the slightest hesitancy in asking, nor would we have any problem with the resources to fund them.

This is not a matter of saving money. It is a matter of best deployment of some very ample and substantial resources.

Senator KENNEDY. I think this is why we think it to be of great value to hear from the panels themselves. They have considerable expertise in this area and I think they have some definite ideas about the potential for manpower and research in these areas. We are obviously not interested in just authorizing money or just building facilities.

We want to make sure that every dollar in this program is maximized.

But I think if the case is made for justification of additional centers by those who have a primary responsibility in advising in this area, that will be very compelling testimony.

I think we should develop this point, and if there are any other questions, we can have them now. I will then have other questions.

Senator Schweiker.

Senator SCHWEIKER. The point I want to discuss with the Secretary relates to the $100 million increase for cancer, which I am pleased to see. I am glad to see the administration has upped the commitment.

I guess my question is, will this be totally new money? We will not be taking it from the other National Institutes of Health, and giving it to cancer?

I, unlike some of my colleagues here, wear two hats, being on the Appropriations Committee and the Health Subcommittee. I am delighted to hear the Secretary's opinion of the professional skill of the Appropriations Committee.

One of the problems we ran into last fiscal year was that with the exception of increases in heart and cancer, all the other Institutes of Health decreased from what was spent the year before, and also from what Congress had appropriated.

So I guess my key question is, is the $100 million going to represent another readjustment whereby the Institutes other than, say, heart and cancer, are going to take a cutback from the new 1974 HEW appropriation that just passed, or is this going to really be new money?

Mr. WEINBERGER. A quick answer to your question is, no, it is not being taken from other Institutes. There will be, I think—I do not have the authority this morning to reveal more than the budget request for the Cancer Institute—but I think you will find when the budget is delivered to the Congress next Monday, I believe, that you will be, I hope, pleased and reassured on that point.

You do, however, make an important point that we have to keep in mind, and that I know you do, as a member of the Appropriations Committee, and that is that there are a great many other Governmental activities, many of them have very high importance, also, although cancer does have the highest health priority of the administration.

As is the case with the appropriations for this particular item, the appropriations that we could make for all the other activities in the Government, is finite and limited.

So all of these things have to be considered against the overall background and overall total.

There is another programmatic reason for doing that. That is, the work that is done in the National Cancer Institute is not only of benefit in trying to eliminate cancer, it has a very important carryover to the work that is done in the Heart Institute, and in many others.

Whenever we study the circulation of the blood in the Heart Institute, it is bound to be some help to the people primarily interested in cancer.

When the cancer people study cellular structure, that too has some carryover for other people in other disciplines.

We have to consider the health program of the Government as a whole, and we do have to have in mind that when we ask for a very substantial sum for cancer, that is fully, we think, and completely justified.

We also think that it can be reflected in some of the results that may well benefit people working in other diseases and in other fields, and exactly the same thing happens in reverse when we ask for very substantial sums which we will ask for for the heart research effort, some of that inevitably, perhaps indirectly, sometimes directly, will benefit the cancer effort.

Putting strict boundary lines around these dollar and cents figures is not accurate.

But to answer your question, no, the increased request for the Cancer Institute will not cause a reduction in other Institutes. It does not change basically the overall requirement that we have to look at the entire health program for the Federal Government, for the nation, and we do ultimately have to look at all the available areas for the deployment of the total Federal resources.

Senator SCHWEIKER. As I understand what you are saying, it is that the $100 million increase will not be at the expense of the other Institutes?

Mr. WEINBERGER. I think that is perfectly correct, yes, sir.

Senator KENNNEDY. Senator Javits.

Senator JAVITS. Just one question.

I have already asked the principal question.

Mr. Secretary, the panel which is headed by the distinguished New Yorker, who Senator Kennedy and I had the honor of bringing into this effort—and the country has been blessed for it—Benno Schmidt, is the Chairman of the President's Cancer Panel.

Now, you are the President's department. The panel recommends this bill to us, including a number of things that you oppose.

What is the administration's policy on this matter? Who makes it?

Mr. WEINBERGER. Senator, I will not say you will have to accept, but I will say you can accept the presentation made this morning as reflecting administration policy.

We have, at last count, something under 370 advisory committees. We used to have 490, or something, and they all do very valuable and useful work, and I certainly share with you the high opinion you have expressed of Benno Schmidt.

The minor changes, as I see them, that are recommended in the bill that we have presented this morning, represent administration policy and the administration request for changes in this bill.

You will undoubtedly have many citizens from many other groups, some of them as Government advisory groups, some of them non-Governmental groups, who may suggest other changes, or may suggest leaving the bill alone.

I feel confident in stating to you that the changes we have requested are changes requested by the administration, just as I felt confident in reading the President's letter to you this morning.

Senator JAVITS. Mr. Secretary, the reason for my question is that this—I think I recall the situation correctly—is a different situation. We do have a National Cancer Advisory Board in this field. We also have the President's Panel.

The President's Panel—and I as one of the conferees—was expressly designed to exercise influence on the administration, the Presidency, with respect to this high priority crash program, which was the reason for the whole exercise.

I would have thought that the panel, as distinguished from the Advisory Board or the Department, would express administration policy. But it is a fact that this Panel is another level not normally present. It is a fact, also, that I would assume the independence of the Panel, and therefore, conceivably it could make a recommendation which the administration, through you—and I do not challenge your authority in any way—might not particularly agree with.

But do you not think, Mr. Secretary, that we would then have a right to inquire of the Panel what is really its function, if it is nothing but a supervisory committee, since we have an Advisory Board.

Could you tell us, therefore, as a corollary question, whether you think the panel should be preserved; and if so, why? What does it do that is different from the Advisory Board, in your opinion?

Mr. WEINBERGER. Well, Senator, the Panel does have a special function, and we, by working with them, and working with the National Cancer Institute, have evolved what we consider to be a satisfactory and very good working relationship that because of the good will of various individuals involved does seem to be working well at this point.

As far as their special function is concerned, it is set forth in the conference report, and the statute, and I would not wish to either challenge it or to characterize it, but to simply allow it to speak for itself.

Senator JAVITS. I will pass now, because I do not have the recital before me, but I think we ought to read into the record what the Advisory Panel does, and really test out whether that function is not duplicative of the Advisory Board.

Do you have it in front of you?

Mr. WEINBERGER. I have the language, yes, sir.

It says that the panel shall monitor the development and execution of the national cancer program under this section, and shall report directly to the President. Any delays or blockages of the execution of the program shall immediately be brought to the attention of the President.

The panel should submit to the President periodic progress reports on the program, annually, an evaluation of the efficacy of the program, and suggestions for improvements, and shall submit such other reports as the President shall direct.

At the request of the President it shall submit for his consideration a list of names of persons for consideration for appointment as the Director of the National Cancer Institute.

In other words, Senator, I think the characterization I made earlier is basically accurate that the President receives recommendations and suggestions from him. He receives them from many people. He embodies these recommendations in his decisions, and in authorizing us to present his recommendations with respect to the legislation and his budget request.

Senator JAVITS. This is, however, a unique function in Advisory Boards throughout the Department. To pinpoint this, would you say it is fair that it has three major functions?

One, to monitor the operations, both of the Department and of the Advisory Board?

In other words, it goes both below and above?

Mr. WEINBERGER. It says, "Shall monitor the development and execution of the National Cancer Program."

I suppose to the extent that the Advisory Board is considered part of the program, yes.

Senator JAVITS. It goes below the Advisory Board and above the Department.

Secondly, to submit names for top man in the effort.

Mr. WEINBERGER. Right.

Senator JAVITS. Third, to submit such other recommendations and ideas as its work in one and two may dictate?

Mr. WEINBERGER. To the President, yes, sir.

Senator JAVITS. Then the President may propose, or dispose?

Mr. WEINBERGER. Yes.

Senator JAVITS. Do you favor now that as we have defined it—and you do have this difference—I do not think it is a very deep difference, but it is a difference between the administration and the panel—do you favor the continuation of the panel, feeling that in this case because of the crash nature of the program, this kind of a special agency is necessary?

Mr. WEINBERGER. Well, Senator, I have, as far as this morning is concerned, I have no suggestions to make for organizational or structural changes in the cancer program.

As I say, I think it is working well, because there are many men of good will at all levels involved in it. I think if men of good will want to achieve a good result, they can overcome any organizational problems, or indeed, any organizational structure.

I would not have any recommendations to the committee to make this morning, because when the thing is working well, I do not feel any doctrinaire necessity to recommend changes.

Senator JAVITS. You do imply some doubts about the organizational structure.

Mr. WEINBERGER. I thought I was very careful not to say so.

Senator JAVITS. You do not wish to imply that? You are satisfied with it just as it is?

Mr. WEINBERGER. I thought the statement I made was one that I wanted to have in the record, Senator.

Senator JAVITS. Good. I am asking you another question.

Flatly, directly, are you satisfied with it as it is?

Mr. WEINBERGER. I am satisfied with the way it is working now, because as I say, men of good will who want it to work are addressing themselves assiduously to that. I judge things by how well they are working. This one at the moment is working very well. I have no recommendations as a result to make to the committee on organizational or structural changes.

Senator JAVITS. Thank you.

Senator DOMINICK. Mr. Secretary, I have received information, and I just want to verify this one way or another, that NIH at the moment has received and approved more planning grants than funds are available.

In funding plans for the centers, they will have to establish some more priorities, unless more funds are available.

Would additional funds coming in, if this is true, be available for planning grants, as well as the actual support of centers when they are finally approved?

Mr. WEINBERGER. In the proposed budget for 1975, Senator, we would have an increased amount recommended for the Cancer Centers support. We do feel that the 18 that will be on the line by July 1 is an adequate amount, and if I had more money available in the budget, I would not recommend that more be deployed for bringing onto line more than the 18 centers.

I have no doubt at all that there are, and always will be, a great many more applications than funds, but I suggest that the existence of an application on file does not automatically establish the need.

Senator DOMINICK. I understand that. I am not being critical.

What I am saying is that we are referring here to money for planning grants which have been approved. If you have got a planning grant which has been approved, and the funds have not been available to go forward with planning, there is a little problem there.

Mr. WEINBERGER. The 1975 budget will contain an increase for virtually every item, including planning grants, as I understand it, and for that reason there would be more funds available for planning grants in 1975 than in fiscal year 1974.

Senator DOMINICK. That is what I wanted to find out.

Thank you very much.

Senator KENNEDY. Senator Beall.

Senator BEALL. Thank you, Mr. Chairman.

I do not want to belabor the point, but Senator Schweiker brought up a matter of some interest to me. I think we are all naturally pleased to have the emphasis placed on cancer and the heart.

Obviously, the devastation caused, particularly by cancer, is something that needs national attention.

I saw some statistics recently that indicate that since the year 1968 through this past fiscal year the total obligations to the National Institutes of Health have increased by 41 percent. But if you take, or exclude the money, the obligations for cancer and heart institutes, the total obligations for the other institutes collectively have increased only 3 percent.

As a matter of fact, if you include a 5 percent inflation factor, the total obligation for those Institutes have actually decreased by 24 percent.

This would seem to indicate to me that there is a major change in emphasis toward cancer and heart. I am not complaining about the emphasis, but I am wondering if this is not really at the expense of some of the other Institutes.

There has been a 24 percent decrease for some of the other Institutes——

Mr. WEINBERGER. I do not believe there has been a decrease at all. I think there has been a leveling off. I think this is the inevitable result of an activity that had previously had a growth rate of approximately that of the Japanese economy, something in excess of 25 percent each year for many years, inevitably any such activity is going to have to level out.

The specific question that Senator Schweiker addressed to me is with respect to the 1975 budget and my response to him was that the addition for cancer did not disrupt or lower the planned requests for the other Institutes, and that is an accurate answer.

But the question you address is whether all the other Institutes of the National Institutes of Health should increase at the same steady rate of progression that has been the case in the past, and I suppose that the administration's answer to that simply is that the total funds overall, governmentwide, given the uncontrollability of so many other programs are just not available for that kind of an increase.

On the other hand, I do think that the point I made a moment ago is a valid one, and that is that work done in arthritis, work done in heart, work done in cancer, has a carryover effect back and forth to all of the Institutes and the national health effort, and that we should not ignore that, nor should we feel that simply because cancer is the highest priority, and heart is the second highest priority of the administration, that the work done in those fields is of no benefit to the health of the Nation generally.

I think it is tremendously beneficial, even though it may not be directly involved in additional work on, let us say, arthritis or general medicine, or some of the other aspects of the Institute's work.

Senator **Beall.** I am not disputing that statement, I am in general agreement on it. I am not even suggesting by the question that the other Institutes should increase at the same rate they have been increasing in previous years.

But maybe because the NIH headquarters is in my own State, I have received more mail concerning this installation than others would, but I continue to get letters from people who are employed there in research capacities showing some concern about the way decisions are being made, and where emphasis is being placed.

You cannot help but notice when people like the Assistant Director, who recently resigned, indicated in his statement that the effectiveness of the Institute is being impaired, or that there is an atmosphere of despair around —I am wondering if this does not relate to the way the money is being spent at the Institute?

Mr. **Weinberger.** Senator, I would strongly dispute that, and even more strongly disagree with the resigned former Deputy Director.

I do not think there is any connection whatever between the two. It is unquestionably true that a person who works in a particular field, and who has no responsibility, or indeed knowledge, or willingness to examine the overall problem of the health picture, or of the entire governmental structure would feel aggrieved if his particular specialty is not increased by the amount that he would like.

As you know, from your years of service, there is never a request that can be honored in full. Every request is always heavily inflated, and the ultimate result is something that the process, Congress and the executive branch, working together, ultimately resolve.

Inevitably, in our kind of government, it is going to be something that leaves everybody less than satisfied. I would not be surprised if there are some cancer people who wanted a lot more than $600 million.

I would not be surprised if there were some heart people who want a lot more for the budget request for them in 1975.

Certainly it is true of every form of governmental activity with which I have ever been associated, that the initial request was always higher than the amount that can be allotted.

I do not think there is any basis for despair, or outrage, or the other common words that are used so freely.

The NIH is not in my own State. But I get a lot of mail from it, too, and I sense a very improved spirit.

Dr. Stone is here, and Dr. Rauscher is here. We would be delighted to have either or both of them respond to this question about the general attitude out there.

I think that the work that is being done there is enormously important. It is extremely vital that we fund it at the very high level that we are funding it, and that we continue to fund it.

And the increases that will be requested in 1975, they will not be as much as people intimately concerned with individual details of each Institute would like to have, but that is inevitable, and I think is a permanent condition.

Senator **Beall.** While I would like to pursue the funding and other policies, I will not do it today. But we are here on a specific matter, and I would like to pursue this. I want you to know that I plan soon to go out to the Institute and see for myself, firsthand, what is going on, and get some feel for the feeling of the people there.

Let me ask one other question on another subject.

You have the authority to carry over funds from one year to another, don't you?

Mr. WEINBERGER. Depending on the language in the appropriation bill, but the answer generally is yes.

Senator BEALL. You generally do have that authority?

Mr. WEINBERGER. Yes. One full year is carried over to the end of the Appropriation Act.

Senator BEALL. A researcher then is not compelled to spend all of his grant in the year in which he gets it?

Mr. WEINBERGER. No. We think it is very important that he not be.

Again, we do not think we should measure results by total amount spent in any 1 year.

Senator BEALL. I agree with that.

We ran into a similar problem in education, and we came up with a provision for carryover.

Senator KENNEDY. Senator Pell.

Senator PELL. I had a chance to peruse the statement of the Secretary, and there is one subject that is of particular interest to me, a matter which was enacted into law, and that is the provision in the Cancer Act, saying that the NCI shall "collect, analyze, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an International Cancer Research Data Bank, to collect, catalogue, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country."

The purpose here, as you may recall, was to reflect that we do not have a monopoly on all medical knowledge. Many of the same experiments may be run in Russia, Germany, Britain, France, Japan, and other technologically advanced nations, and some of these experiments may produce useful information.

If we knew about them, we would save time here, and some failures. Some tests may have been run there, and by not knowing about it, we may run through the same tests here.

I am very distressed to find very little real movement along the systems approach for building international data research banks.

The only reference in your statement was on page 6, when you mentioned the Telex line between the United States and the Soviet Union.

I was wondering if you could tell our subcommittee, first, why there has been no substantive movement in the direction which you were mandated to follow; and, second, what your plans are for fulfilling this mandate?

Mr. WEINBERGER. Senator, I would dispute strongly your assumption that there has been no progress, or there has been no carrying out of this mandate. There has been a very substantial carrying out of this mandate.

I had the opportunity this summer, when I was in the Soviet Union, to examine fairly thoroughly a lot of the cancer efforts in

Soviet Russia. They are substantial, and they are very closely correlated with the efforts in our country, as is the case in many other countries where this important work is going forward.

We mentioned the Telex line, because that was a matter of agreement between the two governments, and one of the reasons they wanted to have it was so that there would be a much more rapid exchange of data than would otherwise be the case.

Otherwise, if it was stored in some computers, and printouts made eventually, and computer capability there is not equivalent to ours, so that you would have a much slower exchange of information.

We are carrying out the mandate of the act. We are exchanging both information and scientists, and actual samples of tissue and drugs, and we are doing it with a number of countries.

I think the assumption, or the statement that we are not carrying out the mandate in this connection is quite unwarranted.

There are others here who can testify in more detail perhaps to it, but we recognize fully the work that is done there, just as those countries recognize the importance of the work done in this country.

They are very eager to have an exchange. They are doing that. We also have efforts underway to improve the exchangeability of the information that is gathered at the National Library of Medicine with a number of countries.

In all of these ways the mandate of the act is being carried out. The fact that there may not be a separate building, with a label on it, headed the International Cancer Research Data Bank, should not be taken as any kind of indication that we are not aware of, or do not support the necessity of exchange of information with all these other countries that are also doing very valuable work, and who want the information about the work we are doing.

Senator Pell. Well, what you have described so far is an extension of what we were doing before.

I have yet to hear from you about the system's center.

As you look at the legislative background of this amendment, the statements of Mr. Schmidt, and the advisory committee of the council that he headed, you will see my statement stands. As you say, naturally, when you travel, there is an exchange of documents and information and always has been, but what we are talking about is a single systems center where all these tests are run into a computer and where you have the universities, our own hospitals, and our own research people here with data systems that can feed into a tube and find out what has been run before and what has not, and in this particular regard, the establishment of an international cancer research data bank, no progress has been made whatsoever.

Mr. Weinberger. I think that is not correct. There has been great progress made, Senator, and my understanding is that our data center in this country is the National Cancer Institute and it exchanges information which it gathers through its Registry and others around the country with information that is gathered similarly from the Institute of Oncology in Moscow.

Dr. Rauscher may want to develop that further and also Dr. Edwards.

The structure of the act is being carried out.

Senator **Pell.** As you look back on the hearings we had and the discussions the idea was to tie it into a computer so the man in Chicago can press his buttons there and get back what the results were in Russia or Germany and there has been no move in that direction; am I correct?

Dr. **Rauscher.** Senator, let me speak to that.

No. There has been a great deal of new activity in this area. One of the first activities that was conducted was to determine where data banks already existed not only in this country but in the world.

The idea there, of course, was trying to take advantage of things already developed. This has been done. I can identify three in France, Germany, and England.

The Secretary has already commented about the data system in the Soviet Union.

What we are trying to do is develop a data system where we can get data out of each of these in a very convenient and time saving way.

The other new activity as an example is our support of the International Agency for Research on Cancer in France to serve literally as a world repository.

Now, this is brand new and a very important component of the International Cancer Research Data Bank.

In this country, the National Cancer Institute in Bethesda serves as the major quarterback, if you will, for all these data systems.

There are other principal components of this, however. For instance we have private studies going on now in the Pacific Northwest Center, in the Fred Hutchinson Cancer Center, as well as another one for the Rocky Mountain area centered in Denver whereby all available information that can be of benefit to any physician is now being put not only on tape but already being stored in computers.

Another component of this has to do with the dial access system. A member for instance of the President's Cancer Panel, Dr. Lee Clark, has been very much interested in this and has developed a system as have others in the country whereby physicians can call and find out what is the latest mode of treatment or the best method of treatment for a particular cancer.

This is followed up within 24 hours with a written printout to that physician. These are all components of the data bank. They are all new components that were initiated really since the passage of this act and a great deal of activity has been going on.

Senator **Pell.** To be specific, can Dr. DeBakey in Texas ask his computer has such and such an experiment been run in the Soviet Union from your data bank?

I do not think that is possible. Can you do that?

Dr. **Rauscher.** Not yet in that way. He can still get the information by calling us at the Cancer Institute to find out if that experiment has been performed.

Mr. **Weinberger.** In Dr. DeBakey's case he would be able to get it more directly because he is involved with Dr. Petrovsky, the Minister of Health in the Soviet Union working on this joint authorship and he has a very direct opportunity to communicate and would be perfectly authorized to use our Telex for information of that kind.

Senator **Pell.** When do you believe you will have, at the rate you are moving now, a true international cancer research data bank to collect, catalog, store, and disseminate information?

Mr. **Weinberger.** A great deal will depend on the progress made in other countries.

This does not depend on our own technology alone.

Dr. Rauscher may have an exact time estimate. But a great deal depends on how rapidly they advance their own techniques and their ability to collect and centralize the information done in their countries and place it on the computer.

Senator **Pell.** When do you think you will have such a data bank just for ourselves in the United States?

Dr. **Rauscher.** I think we have a data bank at the present time for the United States.

There really is no trouble getting the kind of information which is very expensive. Most scientists tell me they have enough information now.

Senator **Pell.** When do you think this system will be related to the other countries in the world?

Dr. **Rauscher.** I think for the Soviet Union we are progressing very rapidly and to be specific within the next 8 to 10 months.

Senator **Pell.** How about Germany, France, and Great Britain?

Dr. **Rauscher.** France is about 50 percent. Again, to be precise. there is a long way to go between the United States and France.

We have just signed an agreement also with the Japanese. Our second meeting will be held this spring again with the idea of getting the Japanese data plugged into the international data bank.

Senator **Pell.** Will this be done by computer, and not just by typing a letter?

Dr. **Rauscher.** It will be done through a Telex system with computer storage data.

The computer is the only way to do this, of course. It is the major way.

Senator **Pell.** The major way?

Dr. **Rauscher.** Yes, it is.

Senator **Pell.** And you say that within 2 years we will have a true international data bank established?

Dr. **Rauscher.** I think we already have some major components of the international data bank.

In terms of the complete collection, analysis, dissemination of data, this is a matter of 2, 3, or 5 years.

Senator **Pell.** I still do not understand clearly what you are saying.

When will we be able to acquire information about a serious experiment that has been done and is being run through in Germany, and know if it is a failure or success?

When will that be able to be retrieved immediately?

Mr. **Weinberger.** We can do that now. It is a question first of all whether every doctor in this country is going to be equipped with a computer in his own office. If you want to know the results of an experiment in Germany we are perfectly equipped to get that information back from Germany to the doctor who makes his request to the Institute somewhere in the neighborhood of 24 hours, or maybe 48 hours, depending on how rapidly they can get the answer in Germany.

The centralized points of inquiry and distribution information are established, for the most part.

We can go back this afternoon and tap out a message on the Telex and inquire of the results of some experiment involving some powerful chemotherapy in Russia and if they have the information, it will come back in this afternoon and we can pass it on to Texas, Rhode Island, or wherever the particular doctor is who wants to know. But the ultimate link of a doctor sitting in his office in San Francisco and typing out something and getting an immediate answer back from Moscow is probably a few years off mostly because a great many doctors in San Francisco are not going to have computers in their offices, but the ability to get that kind of an answer in a very short time is there now for the most part and to a great extent it will depend on the ability of the foreign countries with whom we are dealing to collect the information internationally themselves.

In Russia, as Dr. Rauscher has said, the system is very more centralized, and they are able to get that kind of information very quickly. They do not have a voluntary system and can get it very rapidly.

Senator PELL. Who is the Chairman or Director of your International Data Research Bank now?

Mr. WEINBERGER. Where, here?

Dr. RAUSCHER. He is an Associate Director of the National Cancer Institute, Dr. O'Conor. He is a pathologist and an expert in international cancer activities.

Senator PELL. Thank you.

Senator KENNEDY. Perhaps we could get a report from him along the lines of Senator Pell's inquiry to give us a detailed memorandum as to exactly what is being done, if that is agreeable.

Senator PELL. That will be fine, Mr. Chairman.

Mr. WEINBERGER. The President's panel has noted some very flattering aspects of the work also.

Senator KENNEDY. Senator Taft?

Senator TAFT. Thank you, Mr. Chairman.

One of the bases on which the legislation we are discussing this morning was set up was a feeling of mine and I think a feeling of many other Senators that its purposes were several. One was to assure a constituency to direct attention to the point of view of getting assurance of continued, adequate financing and an increase in financing if necessary, to bring about effective research. And we seem to have more or less moved on that objective and where we find ourselves this morning bears out the wisdom of that decision.

It was also a theory that this setting up of a separate institute was the most effective way of assuring maximum progress in research in cancer.

I have heard criticisms of that decision and questioning as to whether or not that actually has occurred as a result of the approach that we took, the setting up of a separate National Cancer Institute.

What I would really like to ask is just one basic question—Is the approach that we have taken of setting up the National Cancer

Institute adequately interdisciplinary to assure that we are making maximum progress in research in cancer?

And, secondly, are we getting the maximum benefit from that research in noncancer-related diseases, as well?

Mr. Weinberger. Senator, I think you put your finger on a very important point in asking an extremely important question, and I would answer it by saying I believe that the work of the National Cancer Institute is interdisciplinary primarily because of the good will of the numbers of people who are participating in it.

I think the organizational structure if it were replicated throughout the entire Government would have obvious disadvantages and would tend to compartmentalize everything and prevent an overall examination of the related aspects of a lot of the work that we are trying to do, not only in health but elsewhere.

It is certainly enough emphasizing and underlying the importance and priority which the administration and the Congress attaches, and properly so, to cancer. But it is quite possible that if it were not being run under this pattern and this organizational structure by men of good will who want to agree and who want to work out results and who want not to have isolation result from this kind of organizational structure that we might be running into those dangers. However, I think it is quite correct to say that one of our major thrusts with respect to the National Institutes of Health has been to assure that the work is entirely interdisciplinary.

Mr. Chairman, that is one of the reasons it is so important to have the entire research effort under general overall direction and supervision and management of the Institute.

Dr. Stone is here and can testify as to our own desires that that happen and that there be proper carryover.

As to the way in which he tries to assure that that does happen, and I think it is happening with respect to cancer and the work of the National Cancer Institute, and I think the fact that it is a very real tribute to the people involved on all aspects of this, maybe Dr. Stone would like to add a word or two.

Dr. Stone. Senator, I would only supplement the Secretary's remarks in one regard, and that is I am extremely pleased that the administration has taken this opportunity to make a very strong statement on behalf of basic medical research.

That is the source of information for all of the Institutes and that has a kind of compatibility, a kind of interchangeability, a kind of diffusion that occurs regardless of institutional boundaries.

As long as we put great effort into that basic medical research I think we are safe.

Mr. Weinberger. I would like to emphasize, Senator, that we do plan and are planning to put a great effort into basic medical research.

We believe it is proper to have a balance between that and research that is specifically focused on trying to develop particular needs and things of that kind.

We have not the slightest intention of reducing or eliminating or in any way weakening any basic research thrust sponsored by the Federal Government.

Senator Taft. Thank you, very much.

I gather that the answer is, it is something that appears to be satisfactory at the moment but should continue to be monitored.

Mr. Weinberger. Yes, that is the gist of the answer I tried to give to Senator Javits and that is my feeling.

Senator Kennedy. I have some questions for Dr. Rauscher.

Has your budget channel procedure worked well?

Dr. Rauscher. It has worked very well, Mr. Chairman.

Senator Kennedy. And you have submitted your budget directly to the White House and gotten your funds from OMB directly?

Dr. Rauscher. We submit our funds directly to the Office of Management and Budget with concurrent copies to Dr. Stone and to the Department.

That has worked very well.

Senator Kennedy. How many personnel positions have you requested in order to fill out your mandate in the cancer program?

Dr. Rauscher. I have been very concerned about the availability of an adequate manpower base to effectively manage the dollars we are getting into cancer all over the country and have requested additional positions from the Office of Management and Budget with support from the Department.

I am very pleased to say quite recently we did receive an additional number of positions.

Senator Kennedy. How many did you request?

Dr. Rauscher. I requested a minimum of 109 positions.

Senator Kennedy. When did you make that request?

Dr. Rauscher. About a month ago.

Senator Kennedy. And how many have your received?

Dr. Rauscher. We will be authorized, it is my understanding, to recruit virtually up to that level over a 2 fiscal year period beginning with this fiscal year.

I do not know what the exact distribution will be in 1974 and 1975, yet.

Senator Kennedy. You had requested for just 1 year and now you will be able to get the full complement over a 2-year period?

Dr. Rauscher. My major concern was to have as many positions as we needed as a minimum right now and I think we will get them.

I have been told that these positions are up and forthcoming.

Senator Kennedy. Who has told you that?

Dr. Rauscher. This is word from the Under Secretary and from the Assistant Secretary as well as from OMB.

Mr. Weinberger. I can confirm that.

Senator Kennedy. That they will get those positions?

Mr. Weinberger. Yes.

Senator Kennedy. Mr. Secretary, if this direct budgeting process appears to have worked so well in regard to cancer, why not develop a similar system for the rest of NIH to guard against what has been I think the legitimate concern of Senator Schweiker, Senator Pell, and a number of us over a period of time; that is, the cutting back of the other Institutes.

Mr. Weinberger. Senator, that is a system that can only work when there is no concern whatever about the total expenditures each year of the Government.

Senator Kennedy. I do not think that is very responsive.

Do you want the record to reflect that answer as a response?

Mr. **Weinberger.** It cannot be more responsive or specific than that. You cannot have that kind of system unless you have no concern about the overall total that the Government spends.

If you have any concern about that and its effect on the inflation and the tax burden people have to have, then you have to have some overall consideration of the total requests. And those I think have to initiate generally with the departments that are most concerned with those activities. Otherwise, you have something like 1,500 or 1,800 separate units going in with their own separate budget and I do not think that kind of system would work.

We have tried it on a much smaller scale prior to 1921 and ever since then the feeling has been that we needed some kind of overall approach.

It is actually the system that has produced an increase in the NIH budgeting from something under $5 million to about $2 billion now.

It has not worked in all that restrictive a fashion but it does have to have I think some kind of overall examination and otherwise each individual program, each individual Institute, the person who felt he was not getting all he felt he was entitled to would run this independent route and we would have quite a problem.

Senator **Kennedy.** Any Institute staff would obviously have to justify such a request. Why would you not expect them to adopt a responsible attitude?

Mr. **Weinberger.** It is a question of whom are they going to justify it to and what would be the criteria used.

Generally speaking among people who are primarily interested, and I do not say it critically, people with primary interest justify it by saying they need it and they do not have an independent examination made of their need measured against a total background of availability of resources. And if, as I say, there is no concern whatever about the overall total that the Government spends, then it is a system that conceivably could work, that you just add up a list of demands, but it is not a system that can work where you have to have some concern as to what the Government spends or the people pay in taxes or the effect on the economy, etc.

Senator **Kennedy.** Of course, OMB would still be available to exercise some judgment.

Mr. **Weinberger.** Well, they are fairly heavily burdened now and if there is no screening in advance of OMB I would think the protest against OMB would rise to such a pitch of volume that they would be abolished within 6 months.

Senator **Kennedy.** To some that might appear desirable.

Mr. **Weinberger.** To some that is a temptation but I do not hold it out to you as a hope.

I think you would find the tax rate would be completely insupportable, particularly for the elected officials, and you just could not have that kind of system and expect to have any kind of built-in self restraints.

Senator **Kennedy.** I think you would be surprised at the number of Americans who would be willing to pay more taxes if more money were to go to improved health care.

Mr. **Weinberger**. One question to be answered is, what are they getting for that money? And that is not showing them vastly increased totals each year without substantial improvements in results and I do not think that would satisfy very many of them. I do not think they would gladly bear this increased burden.

Senator **Kennedy**. I think indications from the public over any period of time have shown strong support for allocating additional funds for these kinds of health programs. Obviously we are not suggesting the open-endedness you inferred in response to my question, but I think the American people would like to see these kinds of programs developed, and I think the American people would support additional allocations to do so.

Mr. **Weinberger**. What we are really talking about is the President's request, the administration's request of the Congress.

There is, as you know, nothing that prevents the Congress from adding to a Presidential request.

What we are talking about is the mechanics of preparing and organizing and considering the President's overall request for the Government as a whole, and if the Congress has different ideas as to the proper priorities, they have certainly not hesitated to exercise those in the past and I am sure would again.

I do not see any way in which you could apply this particular organizational structure to the Government as a whole and I think you would have very serious problems if you did it.

Indeed, it was those very problems when the Government was much smaller that led to the creation of the Budget and Accounting Act of 1921.

Senator **Kennedy**. Excuse me, Mr. Secretary, I was not talking of the Government as a whole but of the National Institutes of Health.

Mr. **Weinberger**. There is every reason to believe that the precedent that would be established and extended and carried out because your very understandable and proper interest in health was replicated by your colleagues in every other field in which the Government is interested and I see no way in which we could present any logical arguments against doing the same thing in education or in welfare or in the environment or any one of a number of different fields.

[The prepared statement of Caspar Weinberger follows:]

FOR RELEASE ONLY UPON DELIVERY
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

STATEMENT

OF

CASPAR W. WEINBERGER

SECRETARY OF HEALTH, EDUCATION, AND WELFARE

BEFORE THE

SUBCOMMITTEE ON HEALTH

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

Wednesday, January 30, 1974

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am pleased to be here to testify in support of the extension of the programs authorized by the National Cancer Act of 1971, the authorizations for which expire on June 30th of this year.

I would first, however, like to make a few introductory remarks, followed by a brief summary of progress since passage of the Act.

Introduction

The Administration and Congress have both been deeply committed to the expanded cancer research program which was augmented in December 1971 when President Nixon signed the National Cancer Act. Our joint efforts in these areas have indeed provided an excellent example of the ability of the Executive and Legislative branches to work together in dealing with a major problem.

Cancer, in its more than 100 forms, still constitutes a devastating health problem for the citizens of this country and, indeed, for mankind everywhere. Cancer continues to be the second leading cause of death in this country and the incidence of new cases continues to increase.

Yet the outlook is improving at a steadily accelerating pace. One out of every three persons who now have cancer can expect to be alive five years after treatment. There are one and a half million Americans who have had cancer but are now well. An additional one million cancer patients diagnosed and treated in the last five years are expected to live to join these ranks.

Much of this progress and the hope for the future is a result of the increased emphasis of the cancer research effort as administered by the NCI and the NIH, in cooperation with many private and public groups. This effort has a dual mission. The first is to speed the development of new knowledge by an intensive and coordinated research effort involving the broad scope of medical, biological, chemical, and physical sciences. The second is to demonstrate the most effective methods for the prevention and control of cancer through dissemination and educational activities. This demonstration of research results applies the best of our present knowledge and will provide for the rapid application of new information as the national cancer research effort continues to gather momentum.

Progress

This dual approach has resulted in much progress, which has brought us closer to the answers we need. This progress has been the product of cooperative public and private efforts in the areas of cancer cause and prevention, detection and diagnosis, treatment, and rehabilitation.

We do not expect that there will ever be a single cure for the many forms of cancer. Instead, scientists and physicians are exploring all promising avenues of research that may lead to identifying the causes of cancer, preventing cancer whenever possible, diagnosing cancer earlier and more accurately, and treating it more effectively. The host of individual advances all work toward the ultimate goal of preventing the occurrence of cancer, curing cancer when it does occur, and restoring former cancer patients to full, productive lives.

To implement these programs more effectively, the National Cancer Institute has recently undergone a major reorganization to assist the Director in carrying out his new and additional responsibilities as Director of the National Cancer Institute. Mr. Chairman, I would like to submit for the record a chart depicting this organization.

I also would like to note the significant budgetary increases that have been provided. In 1971, the National Cancer Institute appropriation level was approximately $233 million. Today, the budget level has more than doubled. The 1974 appropriation would provide up to $551 million and additional increases will be requested for FY-75.

NCI operations are only one of the avenues of approach. The understanding of the abnormal growth and spread of cancer is inextricably linked to the biology of normal cells. The National Cancer Act recognized that, "the present state of our understanding of cancer is a consequence of broad advances across the full scope of the biomedical sciences." This ranges from the molecular biology of genetic control to the biochemistry of cell membranes, metabolism, and immunology. The National Institute of General Medical Sciences, the National Institute of Allergy and Infectious Diseases, the National Institute of Arthritis, Metabolism, and Digestive Diseases, along with the National Cancer Institute and the other Institutes, are responsible for exploring these fundamental life processes through support of basic research. These processes are still far from being fully understood.

The Administration's support of basic research was almost $400 million in 1973. Interaction between scientists of the various Institutes in the area of basic biomedical research and with the scientific community at large is intense. The clues to advances in cancer may well come from research done and supported by other Institutes just as clues to advances in their areas of responsibility may come from research done or supported by the NCI.

Increased participation in cancer research by scientists in industry and in educational and other non-profit institutions also has been achieved as called for by the Act. In 1971, NCI had 1096 active grants and 252 contracts with educational and other non-profit institutions, and there were 139 contracts with profit-making firms. In 1974, NCI will have an estimated 1,747 grants and 1045 contracts with educational and other non-profit institutions, as well as an estimated 216 contracts with profit-making firms.

The international scientific community has also been brought into the cancer research effort, as called for by the Act. Research in 19 foreign countries is being supported by NCI.

Especially noteworthy is the broad cooperative cancer effort that has taken root through the Joint U.S.-U.S.S.R. Health Agreement of 1972. One result of that agreement is the TELEX line which has enabled cancer scientists in the U.S. and the U.S.S.R. to communicate with each other daily since mid-October. This system is used to exchange information on such things as the use of drugs, the exchange of scientists, and the shipment of materials.

I would like to describe briefly some of the accomplishments against cancer which have been made.

I. RESEARCH RESULTS TO DATE

First, in the research effort there is a new emphasis on developing treatment methods that effectively use combinations of surgery, radiation, and drug therapy.

As a result:

- Half of those children with acute lymphocytic leukemia, a cancer of the blood, now are alive five years after diagnosis when treated agressively with radiation and a combination of anti-cancer drugs. Twenty years ago, this disease struck down most of its victims within a few months.

. Radiotherapy for the early stages of Hodgkin's disease, another cancer of the circulatory system, produces five-year survival rates of more than 90 percent. This is compared to a 68 percent survival rate for early Hodgkin's disease five years ago. A four-drug combination treatment for advanced Hodgkin's gives a 65 percent survival rate after five years, a vast improvement over the survival rate of less than 10 percent five years ago.

. There are indications that breast cancer may yield eventually to a combination of drugs, surgery and radiation. Overall five-year survival rates for this disease, which kills more women than any other form of cancer, have remained near 60 percent for the past two decades. Scientists now have found significant decreases in tumor size when advanced breast cancer patients are treated with any one of six drugs. Although these observations do not show any lengthening of these patients' lives, they are essential first steps toward improved treatment for breast cancer in the future.

. Adriamycin, another experimental drug, has been found to have activity against a broader range of cancers than any other known drug. This includes breast cancer and lung cancer, the leading cancer killer among American men and now the third greatest cause of cancer deaths among women as well. Research now centers on developing less toxic forms of the promising drug.

Second, progress has been made in the early detection of cancer.

For example:

. X-ray examination used in combination with physical examination in studies of mass screening for breast cancer has resulted in a one-third reduction of the death rate from that disease over a five-year period for the individuals in that study.

. Another report in 1973 showed the value of periodic examinations for colon-rectal cancer, the second greatest cause of cancer deaths among both men and women. A study was conducted of 18,000 persons over age 50 who had over the past 25 years received periodic examinations of the lower colon, and removal of polyps or other pre-cancerous conditions.

The rate of colon cancer among these individuals was only 15 percent of that expected if they had not been examined regularly.

. Scientists are using immunologic techniques to detect cancer-related chemicals, or "markers," in the blood or urine of persons with cancer. One such marker, called carcinoembryonic antigen (CEA), may be useful in combination with other tests for cancers of the digestive system, particularly colon cancer.

Third, progress in understanding the causes of cancer may lead to its prevention as well.

In this regard:

. The National Cancer Institute has been able to step up its program to identify cancer-causing chemicals in the environment. Approximately 445 chemicals are now being tested in two-year and three-year studies with animals. The tests are under way at 20 laboratories, including the Frederick Cancer Research Center, converted by Presidential mandate from a biological warfare center, at Fort Detrick, Maryland.

. No virus has yet been found to cause human cancer, but scientists are accumulating evidence for some type of association of several viruses with breast cancer, leukemia, cancer of the cervix, and other forms of cancer. A battery of highly sensitive biochemical and immunologic tests have been developed for this research. These tests have been used to show that at least two suspected human cancer viruses are actually of animal origin, important information which allows NCI to direct its resources elsewhere.

Finally, several totally new approaches for cancer control and prevention may ultimately emerge from fundamental research into the life processes of cells.

These include:

. An artificial and potentially functioning gene has been synthesized for the first time. Years of further research may lie ahead, but scientists hope artificial genes can be used to learn how cancer starts--and how it can be stopped.

. Genes direct the synthesis of enzymes that cells need to function. There is new evidence for several enzymes that may appear only in cancer cells. If these enzymes are essential for cancer, blocking the enzymes may kill cancer cells while leaving normal cells unharmed.

II. TRANSLATION OF RESEARCH RESULTS INTO MEDICAL PRACTICE

Turning to its second thrust, I am pleased to report that the National Cancer Institute, working with cancer centers around the country, has posted an excellent record in delivering research results to the people. We are doing what can be done, now, for the cancer patient and those at risk to cancer.

Nine major medical institutions across the country have established Comprehensive Cancer Centers. The remaining six Centers authorized by the National Cancer Act will join these ranks by July 1. In addition, three pre-existing Centers of comparable scope have been strengthened. These Centers engage in the full range of basic and clinical cancer research and teaching. They demonstrate and assist other institutions in their surrounding areas to provide the best possible programs of cancer prevention, detection, diagnosis, treatment and rehabilitation.

Cancer control activities, also called for by the National Cancer Act, have been firmly established. This new program is speeding the application of research advances through relatively short-term projects conducted in and out of major centers such as:

. In cooperation with the American Cancer Society, 20 breast cancer detection projects have been established throughout the country. More than 100,000 women will be screened annually to find breast cancers in the earliest possible state--when this leading cause of cancer death among American women is most curable.

. A network of more than 100 community hospitals is being established to demonstrate effective new treatments for acute lymphocytic leukemia, Hodgkin's disease and non-Hodgkin's lymphomas.

. Collaboration with the HEW National Clearinghouse for Smoking and Health is aimed at reducing the number of cancers caused by smoking.

. Several centers and hospitals are developing model cancer rehabilitation programs that can be replicated in community hospitals as well as in the large centers for cancer care.

The National Cancer Institute also conducts and supports clinical research involving all 36 major forms of cancer.

More than 20,000 patients, 1,600 physicians and 320 cancer centers and other hospitals throughout the country are participating in these programs. This is the frontline where new approaches are being tested for treating cancer.

Description of S.2893

S.2893 would extend the appropriation authorization in the National Cancer Act of 1971 for three years raising the authorization levels to a total of $750 million in 1975, $830 million in 1976, and $985 million in 1977.

The bill would also make certain other changes in the Act. It would remove the statutory limitation of 15 new cancer research and demonstration centers. It would raise the authorization for scientific or expert consultants from 50 to 100. It would also expand the construction authority of the Act to include construction of non-clinical basic research facilities.

Proposals for Change

The Administration and this Committee are, I believe, in full accord in our commitment to maintain the momentum of the cancer research effort. It has the highest health priority in this Administration. We do disagree on certain of the specifics of the approach to be taken. These differences arise from our need to consider it against the background of the total resources we have for other health research efforts and for other health programs as well.

We agree, as I have stated before, that the forward thrust must be maintained and enhanced. We would, however, ask that the following changes be incorporated into S.2893.

First, we believe that specific authorization levels for the Cancer Control Program and for the remainder of the program be deleted in favor of a single authorization, "such sums as may be necessary." We feel strongly that this language adds additional necessary flexibility to our efforts to manage the resources available for health programs. As noted earlier, the funding requested for FY-75 represents an increase over that appropriated in FY-74.

Secondly, we do not believe that additional categorical cancer centers beyond the 18 now established (15 new, 3 strengthened) should be constructed at this time. We feel that the existing three centers in addition to the 15 centers authorized in the Act constitute an adequate and effective demonstration effort. The National Cancer Institute estimates that 18 centers will provide outpatient care within a 60-mile range to approximately 45 percent of the U.S. population and inpatient care within a 120-mile range to over 80 percent of the population. With this amount of population covered, these centers can effectively carry out an essential mission of demonstrating the best methods of cancer treatment. To support any more of these centers would move the Federal Government dangerously close to a complete cancer-based treatment responsibility. This role would not only be an undesirable and unnecessary one for the Federal Government, but would create serious equity problems by providing special Federal subsidies on a categorical basis. We feel that the Federal Government's resources will be used far more appropriately and effectively against this serious health problem by concentrating on research and demonstration of effective modes of care.

The last two proposals in S.2893 (to delete the words "where appropriate" from Section 407(b)(7) and to increase the number of experts and consultants in Section 410(1) from 50 to 100) are not needed and would not enhance the operation of the National Cancer Institute. These proposals were suggested by an Ad Hoc Committee appointed by the National Cancer Advisory Board and have not been identified by the National Cancer Institute as creating administrative problems.

Summary

In summary, Mr. Chairman, the Administration is pleased with the progress made by the expanded cancer research effort. We firmly support your efforts to continue the program and, with the changes which we have suggested, would be glad to support S.2893.

Mr. Chairman, that concludes my formal remarks. We would be pleased to answer any questions from you or your colleagues.

Senator KENNEDY. Senator Nelson?

Senator NELSON. I have a question for Dr. Edwards.

When the Cancer Act was before us a few years ago with a provision which was supported by the administration, and by the chairman of this committee, creating a semiautonomous status for the Cancer Institute within the NIH, I opposed it and voted against the bill for the reason that I thought it was deleterious to the National Institutes of Health and counterproductive from the standpoint of helping the cause in this major effort in the cancer field.

At that time every single medical organization and scientific organization in America that took a stand, took a stand against that provision for a semiautonomous status for the Cancer Institute. They included the Association of American Medical Colleges, the American Medical Association, the American Association for Cancer Research, the Federation of American Societies for Experimental Biology, and many more.

There was no medical organization that I know of and no scientific organization which was not critical of that provision.

Now, in this news story, in the Washington Post, Nov. 21, 1973, there is a comment by you, Dr. Edwards. Having been in politics a long time, I know that what the newspapers say may not always be correct, and only a couple of words in this article are actual quotes.

Anyway, the opening of the story says, "The Government's chief health official, Dr. Charles Edwards, said yesterday that Congress and the President made an administrative 'mistake' by giving the war on cancer semi-independent status in the Federal bureaucracy."

I would ask you to comment on that. If you believe that to be so, would you think we ought to have some kind of a review of the administrative procedures called for in the Cancer Act, and a recommendation to the Congress as to whether to continue that semi-independent status or to reestablish cancer's position with the same status as the other Institutes?

I understand, since the law has not been interpreted strictly, that you had more of an input and administratively kind of worked things out, so the bill did not quite accomplish what the strict language did say.

Would you like to comment on that, Dr. Edwards?

Dr. EDWARDS. Yes, Senator. I made that comment in response to a discussion that we were having regarding the National Institutes of Health.

Let me first say I think one of the great strengths in the entire health system in the United States is the National Institutes of Health and I think one of the reasons that it has this great strength is it is an organization that has in the past utilized interdisciplinary strengths, the Institutes working together.

There has been a program balance out there that I think has strengthened the organization. I think the Secretary has very adequately expressed our position.

We feel under Dr. Rauscher and Dr. Stone's leadership the current cancer program is working very well and the leadership has been excellent.

The thing that would concern me is that we do not split or give the other Institutes of the National Institutes of Health partial autonomy because in the final analysis what we would be doing would be destroying NIH and I think that is too vital a national resource to take any chance with its viability.

Senator **Nelson**. Well, the paper is correct. It quoted you as saying it was an administrative mistake.

Dr. **Edwards**. I think just from a poor management point of view it does add difficulties whenever you add different lines of authority, change the command and so forth, but nevertheless we have made it work and I think at the moment the important thing is to keep the program in place, keep the leadership which has demonstrated itself, in our judgment, very conclusively effective and not interfere with the progress that has been made and that is currently going on.

Senator **Nelson**. Well, if it is in your judgment an administrative mistake sufficient to comment on publicly, would you recommend there be some reevaluation of that aspect of that piece of legislation with recommendations, if the evaluation indicates there ought to be recommendations, for change?

Dr. **Edwards**. Well, I think we constantly have to reevaluate the way we are operating the Federal health establishment.

I think as the Secretary has said, I think there is, whether we admit it or not, a limit as to how much the public is willing to pay for biomedical research.

If that is true, we have to set up under the Director of the National Institutes of Health a priority, a system that will help us develop priorities; and I think that this has to be done by the Director of the National Institutes of Health, an individual who has access and information and the overall view of the biomedical research effort, not just the Federal Government and the Nation generally.

As a result of that I think we have to constantly reevaluate how we are doing business.

Senator **Nelson**. I had a previous engagement, so I could not be here, and if the questions have been asked, tell me so.

We constantly hear in reports in the press, and I hear from acquaintances and friends and others, in NIH, that the morale in the National Institutes is very low, and that you are losing lots of scientists.

I do not know whether I am correct in my memory about this, but I seem to recall 1,000 have left since 1968.

In any event, you continue to hear this, and I continue to talk to doctors who are associated on some of the advisory panels, and I talk to others in the Institutes, and it is repeated often enough so it is very disturbing to me to have people who have been there and are dedicated saying that the morale is very low, the lowest that they know of. I know some personally who have already left, and some others who are going to leave.

What is your evaluation of that assertion in the press about many of the employees out there?

Dr. **Edwards**. Are you speaking to me?

Senator **Nelson**. Well, whoever is knowledgeable.

Dr. **Edwards**. Well, I will speak to it, and then anyone else can speak to it, if they like.

The National Institutes of Health have had morale problems. There is no question about it.

I think over the past, under Doctor Stone's direction, however, I think this morale has been improving. I think the morale problems that have occurred in the past occurred for a number of reasons.

I think we have had them because there has been some tightness in the budget. I think there have been morale problems because there have been a number of people out there who believe very strongly in this balance of programs, who see the balance shifting in favor of two categorical programs; namely, cancer and heart disease.

I am not arguing whether this is right or wrong, but nevertheless it does create a morale problem for those in the other Institutes.

We have changed directors in the last year, and whenever you change a director of any organization, it creates a certain number of morale problems.

The deputy director is leaving. That has created a certain number of problems. That comes as no great shock. It was indicated that he was likely to leave a year ago.

These are all issues that I think Doctor Stone has under control, and I think under his leadership since July 1, there has been a definite improvement in morale in the general operation of the whole National Institutes.

Senator **Nelson**. I have no further questions.

Senator **Kennedy**. Thank you very much, gentlemen.

We will submit some other questions to you in writing.

[The questions and answers referred to and other information supplied for the record follows:]

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

Honorable Edward M. Kennedy
Chairman, Subcommittee on Health
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Senator Kennedy:

This is in further response to your letter of February 6 requesting answers to several questions concerning S. 2893, the National Cancer Act Amendments, which we did not have the opportunity to cover in detail during my testimony before your Subcommittee. I submit the enclosed answers for your consideration.

If I can supply any additional information or be of any further service to you or your Subcommittee on this matter, please let me know.

Sincerely,

/s/ Caspar Weinberger

Secretary

Enclosure

COPY

Question #1

What were the position ceilings for NCI in fiscal years 1972, 1973 and 1974 and what is projected for fiscal year 1975? What were the NCI requests for positions for those years? How many supergrade positions does NCI now have and how many unfilled requests do they have? How are supergrade positions allocated to NCI from NIH?

Answer

Budgeted positions for NCI:

Fiscal Year 1972 -- 1,669
Fiscal Year 1973 -- 1,736
Fiscal Year 1974 -- 1,844
Fiscal Year 1975 -- 1,873

NCI Requests for Positions:

	Request
Fiscal Year 1972	1,680
Fiscal Year 1973	1,935
Fiscal Year 1974	2,138
Fiscal Year 1975	2,088

NCI has 40 supergrade or their equivalent positions. Approximately 30 more supergrade or their equivalent positions have been requested. On an annual basis, NIH requests NCI to submit all their supergrade or equivalent needs to NIH in priority order. NIH reviews the need of NCI and all other Bureaus, Institutes, Divisions, and NIH makes a determination as to how many supergrades or their equivalent will be allocated to NCI.

Question #2

How many expert appointments have been made at the NCI under Section 410(1)? What are the terms of employment under this type of appointment and why has the NCAB asked to increase the number authorized from 50 to 100?

Answer

To date the NCI has appointed 14 experts under Section 410(1). Expert appointments under this authority receive all Civil Service benefits except tenure. Appointments under this authority can be extended for up to 4 years. Experts are paid within the supergrade salary ranges. The NCAB asked to increase the number authorized from 50 to 100 for two reasons: first, they viewed it as a way to increase NCI supergrade level personnel, on the assumption that these positions can be filled outside the Institute's personnel ceilings which is not the case, and second, to allow more flexibility to recruit top scientific and administrative staff.

Question #3

What has been the impact of the NCI not being an agency-level organization within DHEW? Specifically, what limitations have been placed on the NCI Director's contracting authority? Have personnel reductions been made in the NCI Public Affairs Office and does the Director continue to manage a full range of public affairs activities on behalf of the National Cancer Program? Also, to what grade level does the Director, NCI, have complete (i.e., without prior review and approval) authority to appoint and promote personnel in the NCI?

Answer

Currently, the NCI is a Bureau-level organization within NIH, which is an "agency" in the terms applicable to HEW organization. For most administrative purposes the Director, NCI, reports through the Director, NIH, the Assistant Secretary for Health, to the Secretary, DHEW. If the NCI were raised to an Agency level within the DHEW, the Director, NCI, would be organizatonally equal to the Director, NIH.

Administrative authorities are normally delegated from each higher level organization to succeeding lower levels. Consequently, except for authorities which are vested by law in the Director, NCI, the administration of the National Cancer Program is subject to delegations of authorities from levels noted above except for the budget authority of P.L. 92-218.

The Secretary, DHEW, has essentially delegated all research contracting authority to Agency heads, including the Director, NIH. The Director, NIH, in turn, has delegated all of these authorities to the NIH Bureaus, including NCI. The Secretary, and hence the Director, NIH, has retained only the authority to establish overall HEW procurement policies and procedures and to conduct pre-award review and approval of all contracts in excess of $500,000 and non-competitive contracts in excess of $100,000 and to appoint contracting officers.

The Office of Public Affairs for the National Cancer Institute and the National Cancer Program has been terminated, and the Institute's personnel positions were reduced by six as a result of the DHEW public affairs' reorganization.

The public affairs' activities of NCI and the national program are now being met by the central NIH Office of Public Information as are the needs of the other Institutes within NIH.

Question #3 (continued)

The Director of the National Cancer Institute goes through the NIH to have direct access to the mass media, though, of course, the mass media contact him directly. Audiovisual production resources together with certain other related technical services also are available to the NCI Director through NIH.

Moreover, as part of the public affairs reorganization, DHEW has set new regulations and rules for contracting for such services as printing (excluding GPO or internal printing of publications), graphics, audiovisuals, exhibitry, writing and editing. These new requirements include concept and other clearances by the Assistant Secretary for Public Affairs. They apply to contracts for public information and education and for information and education communications activities among NCI and practicing physicians, research scientists and hospitals, professional and voluntary groups, and other institutions and agencies participating in the cancer research effort.

The Director, NCI, or his designee has final authority for the appointment or promotion of any employee through Grade 14 and for GS-15 scientists in the extramural research area. Other personnel authority retained by the Director of NIH is as follows:

a) He must concur in appointments or promotions at Grade 14 for the top position in the function areas of executive and administrative management; financial mangement; personnel management; management analysis; grants or contracts administration; procurement; supply management; business data systems; program planning and evaluation; legislative analysis; resources analysis; and public information.

b) The NIH Director must concur in the appointment or promotion of any GS-13 through GS-15 professional, scientific or technical support positions in the intramural, collaborative, or other direct research programs. This includes personnel engaged in the scientific application of computer data systems.

c) The NIH Director must approve or clear the appointment or promotion of research assistants/technical positions above GS-9 in intramural, collaborative, or other direct research programs when filled by nondoctorate personnel.

Question #4

How were the authorization levels approved by the National Cancer Advisory Board and President's Cancer Panel derived?

Answer

In developing the five-year resource projections for the NCP Strategic Plan an analysis of alternative budget levels was conducted. The result of this analysis is presented in the document entitled "An Analysis of Mid-Range Resources Requirements for the National Cancer Program" dated March 1973, DHEW Publication No. (NIH) 74-571.

Three basic resource projection levels were developed: (1) an estimate which reflected an almost zero growth in the program; (2) an estimate which reflected an accelerated program taking maximum advantage of available knowledge and opportunities; and (3) an estimate whch falls between the other two levels. This last estimate was presented in the Strategic Plan.

These estimates take into account such factors as the resources needed to implement the recommendation of the Airlie planning sessions, resources committed to current research programs, categories and numbers of manpower needed to implement the program (and direct and indirect costs and resources associated with these categories of manpower), facilities, impact of inflation on salaries, supporting resources (e.g., materials, equipment) and construction, but they do not consider the balance of biomedicine research needs for other than cancer research.

These estimates were presented to the National Cancer Advisory Board at the June 1973 meeting, and a subcommittee was appointed to review the material and make recommendations. This subcommittee's report at the Board's October meeting led to slight modifications in the curves presented in the "Mid-Range Analysis."

Question #5

Clarify the opening statement regarding how many comprehensive cancer centers would be needed to put various percentages of the U.S. population within approximately a 60-mile and 120-mile radius of these centers.

Answer

Population studies have been carried out to determine the potential impact of comprehensive cancer centers programs based on geographic distribution of proposed centers. Today, 53 million Americans are within 60 miles of a comprehensive cancer center, and 98 million Americans are within 120 miles. By July 1974, with the 15 centers authorized by law (and the three pre-existing), it is expected that six additional centers will be designated, bringing approximately 60 percent of the American population within daily commuting distance of a center.

The rationale in the opening statement was that providing centers within commuting distance of 60 percent of the U.S. population is optimal population coverage for a large demonstration program. We do not intend for the cancer research and demonstration centers to be a separate federally-built and funded health care system for cancer patients. The purpose of these centers is to demonstrate the most effective and the latest methods of cancer treatment. The 15 centers authorized by law will provide more than ample population coverage for these demonstration efforts. There would be little relative gain in expanding the number of centers. As the above figures indicate, we would have to double the number of centers to reach even 15 percent more population.

Question #6

How are comprehensive cancer centers designated?

Answer

The National Cancer Advisory Board together with NCI staff has established criteria for qualifications as a Comprehensive Cancer Center. Those institutions submitting applications for grant support of a comprehensive center undergo a peer review by outside consultants, with final review being made by the National Cancer Advisory Board. The results of the peer review, including evaluation for comprehensive criteria are communicated to the Director of the National Cancer Institute. Comprehensive centers are designated by the Director based on peer review and advice of the National Cancer Advisory Board.

Question #7

Explain the process by which research and other activities in a comprehensive center receive NCI grants and contracts.

Answer

Core grants (Cancer Center Support Grants) are for the purpose of funding centralized and coordinating functions of a cancer center including salaries and benefits of professional personnel, administration, planning and evaluation, development of new projects, certain hospitalization and clinical costs, alteration and renovation, equipment, supplies and community services. Research and other functions are funded through the normal funding mechanisms, e.g., individual research grants, fellowships, program project grants and contracts. All grants undergo competitive review, traditional research grants by the appropriate Division of Research Grants' Study Section and program project grants and core grants by the Cancer Special Program Advisory Committee or Cancer Research Center Review Committee. Contract support within comprehensive centers must meet the same requirements as any other NCI contract.

Comprehensive centers must augment their support of research by a multiplicity of sources since the core grant supports research only to the extent of providing "seed money" for developing new research project grant programs, after which investigators must obtain funding through normal grant or contract mechanisms.

Centers are encouraged to seek support from various Federal sources, State and local sources, charitable donations and patient care charges.

Question #8

What is the International Cancer Research Data Bank as it is presently being developed? Who will it serve; what are the problems being encountered and when will it be operational?

Answer

On the basis of advice from experts in information science, cancer scientists, and other advisors from various countries, the concept has evolved of a data bank program as an integrated and coordinated GROUP of activities that collect, process and disseminate information related to cancer. Its purpose is to facilitate and promote the exchange of cancer research information between research scientists and clinicians.

Many systems for dissemination of cancer related information already exist. For example, the processing of information related to chemotherapy and carcinogenesis is already well developed within the NCI. In addition many commercial services cover various aspects of the cancer literature. Under these circumstances, the primary effort of the ICRDB Program at this time is devoted to identifying specific gaps in the existing information services and developing products and services which will fill these gaps. At the same time the ICRDB Program is developing methods for gathering information data in specific cancer-related areas from diverse sources, bringing it together in central locations, and processing the data so that it is in a more useful form and more easily available to cancer researchers.

The initial phase of the ICRDB Program development included the following accomplishments (some still in progress):

1) Developed a set of recommendations for the ICRDB Program by a group of cancer researchers, information scientists, library scientists, and information systems managers (May 1972).

2) Arranged for an international advisory group (Committee on International Collaborative Activities (CICA) which is a component of the International Union Against Cancer (UICC) in Geneva) to review development of the ICRDB and provide advice on future efforts.

3) Selected a contractor and awarded a contract to Informatics, Inc. to design a comprehensive system for the ICRDB and to produce some of the specific products and services listed below. (Awarded in May 1973 at the $800,000 level.)

4) Produced a directory of cancer research institutions and cancer-related research projects to promote interaction between scientists working in similar areas.

5) Developed plans for a center which will collect, update, and disseminate information about current cancer research projects.

6) Developed plans for setting up a series of cancer information analysis centers, each of which will provide a spectrum of information products and services in a major area of cancer research. The major approach is to use present computer technology to keep each scientist and clinician aware of current research projects similar to his own, to call his attention to results of related projects as soon as they are released by other researchers and to permit rapid and efficient on-line searching and retrieval of cancer research results obtained in the past.

7) Conducted an extensive survey of cancer researchers and clinicians to determine their present patterns of information use and their need for new types of information products.

8) Began the comprehensive design for the ICRDB Program taking into account the results of the User Survey and the Survey of Existing Cancer Information Systems.

9) Began the preparation of magnetic tape data bases that will facilitate computer searching of cancer-related information.

10) Established how cancer-related data bases prepared by the ICRDB Program can be incorporated into the computer system at the National Library of Medicine and made available throughout the United States and abroad for searching on computer terminals linked to the National Library of Medicine system.

11) Supported development of a registry for collecting and disseminating information about clinical trials involving use of immunotherapy for treating cancer.

12) Began negotiations for use of the French SABIR cancer data base in the United States. This data base is derived from articles describing the results of nearly 25,000 cancer research projects.

13) Developed plans for a Clearinghouse which will collect and process information about current research on cancer epidemiology. This activity will be centered at the International Agency for Cancer Research in Lyon, France.

14) Prepared a catalog listing current information activities supported by NCI. This catalog describes NCI support of data centers which collect and process clinical information on cancer patients both in the United States and in Europe (The European Organization for Research on the Therapy of Cancer or EORTC), as well as support for the Environmental Chemical Information System which processes information about environmental agents that may cause cancer in man.

The ICRDB will facilitate and promote the exchange of information between researchers working on basic cancer biology and clinical cancer researchers. The ICRDB will interface directly with the first two groups of users. It will cooperate fully with and provide information to the Cancer Control Program which has the primary responsibility for interface between NCI and physicians who are treating cancer patients.

The technical, administrative, and political problems associated with the gathering, processing, and dissemination of information on an international scale are inherently quite complex, requiring extensive planning and the solution of many problems arising at each step in ICRDB development. These problems must be solved as ICRDB services are to be made available.

Some products and services have already been provided or are in various stages of planning (see Section A). Demonstration products and services which are used to evaluate and optimize the techniques will be the primary output of the ICRDB in 1974. This will include the availability of detailed cancer chemotherapy abstracts with in-depth indexing through the computer system of the National Library of Medicine by the second half of 1974.

Centers for collection, processing, and disseminating information in almost all major areas of cancer information (chemotherapy, carcinogenesis, cancer immunology, and cancer virology) should be in operation by mid-year 1975. Each of these centers will be engaged in actively promoting the exchange of cancer information and responding to requests in the assigned subject area within a few months after it is established. The data base, subject coverage, and information products and services of each center will grow as funds permit over the next few years.

As problems related to specific subject areas are solved by each center, an effort will be made, beginning in 1976, to increase the efficiency of the centers by combining and centralizing certain selected data gathering, processing, and disseminating activities.

Question #9

Please also submit the latest version of the report required by Section 4(a) regarding the review of all administrative processes under which the National Cancer Program is carried out.

Answer

This report is still in preparation. It will be forwarded to the Committee as soon as our analysis and review of these complex processes are completed.

HARRISON A. WILLIAMS, JR., N.J., CHAIRMAN
JENNINGS RANDOLPH, W. VA.
CLAIBORNE PELL, R.I.
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STEWART E. MCCLURE, STAFF DIRECTOR
ROBERT E. NAGLE, GENERAL COUNSEL

United States Senate
COMMITTEE ON
LABOR AND PUBLIC WELFARE
WASHINGTON, D.C. 20510

February 6, 1974

The Honorable Caspar Weinberger
Secretary
Department of Health, Education & Welfare
Washington, D.C.

Dear Mr. Secretary:

As I indicated to you at the conclusion of your testimony the other day on S. 2893, the National Cancer Act Amendments of 1974, I would very much appreciate the Department's response to the following questions which we did not have a chance to go into detail on during the hearing:

1. What were the position ceilings for NCI in fiscal years 1972, 1973 and 1974 and what is projected for fiscal year 1975? What were the NCI requests for positions for those years? How many supergrade positions does NCI now have and how many unfilled requests do they have? How are supergrade positions allocated to NCI from NIH?

2. How many expert appointments have been made at the NCI under Section 410(1)? What are the terms of employment under this type of appointment and why has the NCAB asked to increase the number authorized from 50 to 100?

3. What has been the impact of the NCI not being an agency level organization within DHEW? Specifically, what limitations have been placed on the NCI Director's contracting authority? Have personnel reductions been made in the NCI Public Affairs Office and does the Director continue to manage a full range of public affairs activities on behalf of the National Cancer Program? Also, to what grade level does the Director, NCI, have complete (i.e., without prior review and approval) authority to appoint and promote personnel in the NCI?

4. How were the authorization levels approved by the National Cancer Advisory Board and President's Cancer Panel derived?

5. Clarify the opening statement regarding how many comprehensive cancer centers would be needed to put various percentages of the U.S. population within approximately a 60-mile and 120-mile radius of these centers.

6. How are comprehensive cancer centers designated?

7. Explain the process by which research and other activities in a comprehensive center receive NCI grants and contracts?

8. What is the International Cancer Research Data Bank as it is presently being developed? Who will it serve; what are the problems being encountered and when will it be operational?

9. Please also submit the latest version of the report required by Section 4(a) regarding the review of all administrative processes under which the National Cancer Program is carried out.

It is my intention to expedite the enactment of S. 2893. Therefore, I would very much appreciate a prompt reply to this request.

Sincerely,

Edward M. Kennedy, Chairman
Senate Health Subcommittee

HARRISON A. WILLIAMS, JR., N.J., CHAIRMAN
JENNINGS RANDOLPH, W. VA.
CLAIBORNE PELL, R.I.
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J. GLENN BEALL, JR., MD.
ROBERT T. STAFFORD, VT.
JOSEPH P. MCMURRAY, STAFF DIRECTOR AND
CHIEF LEGISLATIVE COUNSEL
MARJORIE M. WHITTAKER, CHIEF CLERK

United States Senate
COMMITTEE ON
LABOR AND PUBLIC WELFARE
WASHINGTON, D.C. 20510

September 30, 1974

The Honorable Edward M. Kennedy
Chairman
Senate Health Subcommittee
Washington, D. C.

Dear Senator Kennedy:

On February 4, 1974, we requested specific information from the Department of Health, Education, and Welfare regarding implementation of the National Cancer Act of 1971. On September 23, 1974, we received answers to our queries.

It would be appreciated if the February 4 letter and the September 23 responses were printed as part of the hearing record on the National Cancer Act Amendments of 1974.

In addition, enclosed is the Zinder Report on the Special Virus Cancer Program, with appendices, and articles about the National Cancer Program, which I would appreciate having inserted into the hearing record.

Sincerely yours,

Gaylord Nelson

GAYLORD NELSON
U. S. Senator

GN:cwr

HARRISON A. WILLIAMS, JR., N.J., CHAIRMAN
JENNINGS RANDOLPH, W. VA.
CLAIBORNE PELL, R.I.
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MARIO T. NOTO, STAFF DIRECTOR
ROBERT E. NAGLE, GENERAL COUNSEL

United States Senate
COMMITTEE ON
LABOR AND PUBLIC WELFARE
WASHINGTON, D.C. 20510

The Honorable Caspar Weinberger
Secretary
Department of Health, Education & Welfare
330 Independence Avenue, S.W.
Washington, D.C.

Dear Mr. Secretary:

Three years after the enactment of the special cancer program law, we are now concerned with examining the impact the law has had.

With such a large influx of Federal money, it is important that the program is serving the public health in the best possible way.

It is a matter of public knowledge that there has been some unhappiness, both within HEW and the scientific community at large, about the way the Cancer Act was structured and implemented.

Dr. Edwards, on November 20, 1974, called the administrative and budget arrangement in the cancer program a "mistake," and indicated that budgetary favortisim for cancer research might be at the expense of other research programs.

Morale at the National Institutes of Health is reported to be very low, and a number of scientists are leaving the service of the Federal Government.

There should be a careful review of the impact the Act has had and the way it is being implemented, so that further erosion of the NIH constituency is halted, and the excellent biomedical research that NIH fosters goes forward.

The public should have confidence that its tax dollars are supporting the best possible research in the world in the most productive and efficient way possible.

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A number of questions have arisen about the cancer program, which I would like to have answered for the hearing record, beyond those that were discussed during the oral hearing. I have asked that your responses, along with this letter, be inserted into the hearing record.

Spending for cancer research jumped from $180 million for the National Cancer Institute budget in 1971 to $432 million in 1973, and $551 million in 1974. Outside of the National Heart and Lung Institute budget, which also increased, the nine other Institutes at NIH suffered budget cuts in these years.

Dr. Marston, in an October 6, 1972 memo to the HEW Assistant Secretary for Health and Scientific Affairs, decrying proposed cuts in the 1974 NIH budget, expressed great concern over large increases for cancer research without adequate funding for other research areas.

> "Such a budget would belie any assertion that cancer research growth was not at the expense of other research. More importantly from a substantive standpoint, it might well undercut the promise of significant progress in cancer research itself. For instance, the two most promising areas of cancer research today are immunology, including the studies on BCG, and the area of viral oncology. These areas originally were developed and supported to the point of potential benefit in cancer research by the programs of the National Institute of Allergy and Infectious Diseases. The comparison in funding between these two Institutes fails completely to reflect the heavy dependence of future cancer research on the continued development of more general knowledge in fields such as these, as well as fields represented in other Institutes.
>
> "In summary, we support the cancer proposal but must express concern at a budget that increases cancer by $208 million, heart by $23 million and the balance of biomedical research by $28 million. Additionally, we are also seriously concerned with the capability of the NIH to provide service and logistical support for such an effort without a commitment in 1974 and future years for central staff and facilities." (Emphasis Added.)

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James D. Watson, Nobel Prize winner, professor at Harvard University and Director of the Cold Spring Harbor, New York, Laboratory, had this to say in testimony before the House Subcommittee on Public Health and Environment, March 20, 1973:

> "We thus must not be falsely reassured by the recent federal budget which announces an increase in money for cancer research. While the NCI component does go up, it is only at the expense of other branches of the NIH, any one of which might be the funding body for the scientist(s) who stumbled onto the essential facts we all want.
>
> "Moreover, in looking over the research programs now supported by NCI, comparing them to projects assigned to pigeon holes in other institutes, I am constantly struck by the fact that the vast majority of the best American Biologists are not now supported by NCI but all too often by the Institute for General Medical Sciences, a body without friends on the top and whose budget assignments are increasingly meager."

Moreover, although the NCI staff positions have been allowed to increase since 1968 by about 350 positions, a hold-down on personnel positions has been effected by HEW over the rest of the Institutes, so that, since 1968, it is my understanding that all other Institutes have had a total loss of about 1,000 staff personnel, who have not been replaced.

1. What have been the number of fulltime permanent positions at each Institute, including the Cancer Institute, in each year from 1968 to the present?

   Are these positions largely scientific and professional staff?

2. You testified before the Senate Health Subcommittee that the increases in budget allocations for cancer research had not been made at the expense of other research programs supported by NIH, and that for fiscal 1975, additional funds for cancer research would not be taken from the other Institutes.

COPY

Nevertheless, the proposed 1975 budget shows that the cancer research budget would increase by $73 million to a total of $600 million; that the heart and lung research budget would increase by $23 million to a total of $309 million; but that all other Institute budgets together would increase by only $457,000, and that the Research Resources budget, which I understand is used to support grants for basic research, would drop by $44 million.

If I have these figures correct, it would appear that other Institute budgets are suffering. Please give me your views on this.

Please include figures showing the total budget authority and allocations for each Institute, including the Cancer Institute, from 1970 to fiscal 1975.

3. Who actually is directing the program? The NCI Director? The NIH Director? The Secretary of HEW? The President's Cancer Panel? OMB? Or the President?

   For example, who selects members of ad hoc advisory committees, which the Act says may be established?

4. Do you believe it would be wise to make the NIH Director less tied to political appointment, by setting a time limit on his appointment, and having it confirmed by the Senate?

5. An NIH Committee, the Program Mechanisms Committee headed by Dr. Theodore Cooper, Director, National Heart and Lung Institute, made a study of the NIH contracting process, and in February of last year (1973), recommended that NIH adopt uniform policies and procedures for selecting both grants or contracts, to avoid conflict of interest in contract awards, and to expand to contracts the same kind of peer review system now applied for grants.

   Have these recommendations been implemented for the research and development contract procedure?

   Do you favor a form of peer review by outside experts for both contracts and grants?

COPY

6. The National Cancer Advisory Board became concerned last year that the cancer grant program supporting "basic", investigator-initiated research was being down-graded in favor of NCI-directed, contracts for "targeted" research.

The Advisory Board voted almost unanimously to urge that no less than 50% of the available cancer money go to grants.

What is the percentage of grants versus contract awards now? What was the percentage in 1970, through 1973? What is your view of this matter?

7. It is our understanding that some $237 million has been spent on the Special Virus Cancer Program since it began in 1965, entirely on contracts and intramural research. The National Cancer Advisory Board named a special ad hoc committee to review the virus program.

What were the committee's recommendations, and what is the status of that program now?

8. In August 1973, an ad hoc NIH "Committee on Testing for Environmental Chemical Carcinogens" issued a report, recommending that more special attention be focused on this aspect of cancer research, and that a Federal Council on Environmental Carcinogenic Hazards be established, analogous to the Federal Radiation Council, which formulated Radiation Protection Standards.

Have the recommendations of this Committee been implemented?

9. What percentage of cancer money is going to Chemotherapy Research? Immunology Research? Virology Research? Hemotology Research? Other research areas? (Identify.)

10. We understand that platelet therapy has some potential for cancer research, as well as for aplastic anemia.

Is NCI funding such research, and how does the funding compare to that for such research in past years?

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11. Are there enough adequately trained researchers to carry out the potential expanded research in cancer? Do we need to support training of more researchers?

12. Should federal support continue for pre-doctoral research training, as well as for post-doctoral training?

13. In a January 24, 1974, letter to the Washington Post, responding to an editorial, which, in turn, discussed Dr. John Sherman's resignation as Deputy Director of NIH, Dr. Edwards made reference to NIH leadership not having been "more perceptive and responsive" so as to prevent the "removal of the cancer research effort from the administrative control of NIH, a move that threatens the further dissolution of biomedical research efforts."

    Quite clearly, the leadership at NIH opposed creating a special status for cancer at the time the Congress was debating the Cancer Act. The HEW Department and the White House changed positions several times, from supporting a separate cancer status to opposing it, to supporting a modified semi-independent status.

    In what way should the NIH leadership, which consistently opposed an independent cancer research effort, have acted differently?

Thank you for your cooperation in answering these questions for the record.

Sincerely,

GAYLORD NELSON
U.S. Senator

GN/jrl

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THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

Honorable Gaylord Nelson
United States Senate
Washington, D. C. 20510

Dear Senator Nelson:

This is in response to your questions concerning S. 2893, the National Cancer Act Amendments, which we did not have the opportunity to cover in detail during my testimony at the hearing. We regret the delay in responding to your concerns.

Enclosed are the responses to the specific questions you raised. We would, in addition, like to address some of the broader issues which you raised in connection with these questions.

On the issue of "budgetary favoritism" for cancer research, we noted at the cancer hearing that we believe that we have balanced programs among the Institutes at the National Institutes of Health. Furthermore, it is our belief that the structure of the current cancer program is working well, and that the program has excellent leadership. It is, nonetheless, the Department's concern that other NIH institutes not be given special semi-independent status as was done with the cancer program. This, we feel, would ultimately destroy the Institutes' interdisciplinary strengths, and thus their viability. Moreover, it would be contrary to the agreed upon priority of cancer research.

With regard to your views on the expansion of the cancer program in relation to other Institutes, I should note that the growth rate of the other Institutes had previously been in excess of 25 percent each year for many years. It is inevitable that this trend would eventually end. This does not mean that the program of the other institutes has been disrupted or that the quality of their research reduced. It simply means that Federal funds are not available to continue to increase all programs at the same time.

In connection with your concern about low morale at NIH, there may have been some truth to that allegation when the National Institutes of Health was without a director for a period of time last year. However, it is our observation that since July of 1973 morale has improved considerably.

With respect to turnover rates, we believe that the failure of Congress to enact higher salaries for our scientists at the super grade levels as requested by the President is much more a cause of scientists leaving the Federal Government than "low morale." We believe that enactment of the Administration's proposals in this area--along with implementation of the new physician bonus authorities for the Public Health Service Commissioned Corps--will contribute to retention rates.

Your letter also expressed general concern about the future direction of biomedical research at NIH. I am confident that the Assistant Secretary for Health, along with the NIH Director and his scientific staff, can work together successfully to exert the necessary leadership for Federally-supported biomedical research.

In addition, Section 201 of the National Cancer Act Amendments of 1974, P.L. 93-352, establishes the President's Biomedical Research Panel to identify and make recommendations with respect to policy issues concerning the organization and operation of biomedical and behavioral research conducted and supported under programs of NIH and NIMH. We also welcome the opportunity to assist this Panel in any way possible in our common goal of furthering the quality of biomedical research.

Sincerely,

Secretary

Enclosures

Question #1

What have been the number of fulltime permanent positions at each Institute, including the Cancer Institute, in each year from 1968 to the present?

Are these positions largely scientific and professional staff?

Answer

Approximately one-third of the positions at the NIH are filled by professional and scientific personnel. See attached chart of comparable positions, FY 1968 - 1975.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
NATIONAL INSTITUTES OF HEALTH

COMPARABLE END-OF-YEAR FULL TIME PERMANENT EMPLOYMENT
FY 1968 - 1975 1/

	1968	1969	1970	1971	1972	1973	1974 Est. Original	1974 2/	President's Budget 1975 3/
NCI............	1,453	1,411	1,355	1,426	1,663	1,720	1,820	1,820	1,855
NHLI...........	609	564	558	584	618	641	656	687	656
NIDR...........	301	291	283	289	288	287	265	267	265
NIAMDD.........	633	615	588	597	585	579	551	560	551
NINDS..........	732	652	588	583	557	527	515	524	515
NIAID..........	706	695	676	665	623	604	590	599	590
NIGMS..........	207	191	180	164	167	147	153	153	153
NICHD..........	405	400	415	435	482	510	514	523	524
NEI............	--	59	85	92	117	121	127	132	127
NIEHS..........	169	176	202	220	235	228	233	235	233
RR.............	98	85	82	83	78	75	71	71	71
FIC............	62	46	48	47	59	53	49	49	49
TOTAL IRD'S..	5,375	5,185	5,060	5,185	5,474	5,492	5,544	5,620	5,519
NIM...........	491	489	461	462	465	456	455	465	455
OD............	--	472	473	489	490	513	525	531	525
MF............	4,389	3,527	3,403	3,470	3,330	3,326	3,265	3,373	3,284
S&S...........	676	779	736	645	624	701	606	606	606
TOTAL, NIH	10,931	10,452	10,133	10,251	10,383	10,488	10,395	10,595	10,459

1/ All years prior to 1975 adjusted to reflect organizational changes in NIH inherent in 1975 Budget

2/ Tentative, pending review by Director, NIH with each Institute Director.

3/ 1975 employment is currently being studied. Final decisions regarding a potential increase in employment ceiling have not been made.

Question #2

You testified before the Senate Health Subcommittee that the changes in budget allocations for cancer research had not been made at the expense of other research programs supported by NIH, and that for fiscal 1975, additional funds for cancer research would not be taken from the other Institutes.

Nevertheless, the proposed 1975 budget shows that the cancer research budget would increase by $73 million to a total of $600 million; that the heart and lung research budget would increase by $23 million to a total of $309 million; but that all other Institute budgets together would increase by only $457,000, and that the Research Resources budget, which I understand is used to support grants for basic research, would drop by $44 million.

If I have these figures correct, it would appear that other Institute budgets are suffering. Please give me your views on this.

Please include figures showing the total budget authority and allocations for each Institute, including the Cancer Institute, from 1970 to fiscal 1975.

Answer

The FY 1975 budget request for the NIH is $1,834,784,000, an increase of about $54 million from the amounts appropriated for FY 1974. This is made up, as stated in the question, primarily of increases in the cancer and heart/lung programs. These two programs have grown rapidly in line with their status as priority Presidential programs. Other biomedical research areas have grown, but less rapidly than the cancer or heart/lung programs. For example, the figures on the following page indicate that the budgets of the research institutes other than cancer and heart/lung increased by over $200 million in the 1970-1975 time frame. In short, the research budgets of the other Institutes have not been ignored.

It is true that the Research Resources budget is reduced by $44 million in 1975. This reflects the proposed phase-out of the General Research Support Grant Program (GRSC). The original objectives of this program have been met--high quality biomedical institutional strength has been built up. Now, it is believed, biomedical research funds will be more efficiently utilized in the regular research grant programs of the Institutes. Unlike GRSG funds, which are made available on a formula basis and for which no specific investigator initiated research is undertaken, research grant requests are subjected to a rigorous scientific review process which ensures that the best research projects proposed are funded. Minority Schools Biomedical Support Program (MSBS), however, a component of GRSC, will be continued in 1975 at its $7 million level. This program provides support to minority insitutions for the development of biomedical research activities.

A table showing comparable appropriations from FY 1970 to present is attached.

NATIONAL INSTITUTES OF HEALTH

COMPARABLE BUDGET AUTHORITY FY 1970 - FY 1975
(IN THOUSANDS OF DOLLARS)

	1970	1971	1972	1973	1974	Bud. Est. 1975
NCI	$171,822	$223,633	$372,838	$485,230	$527,399	$600,000
NHLI	148,451	182,360	224,389	287,927	286,749	309,299
NIDR	27,066	33,504	42,366	45,793	43,955	43,959
NIAMDD	125,122	125,095	145,032	158,257	153,736	152,961
NINDS	90,242	93,647	111,557	124,469	121,393	119,958
NIAID	91,265	92,329	103,986	107,698	111,146	110,404
NIGMS	139,197	146,557	166,358	173,757	166,805	168,329
NICHD	71,303	89,222	112,515	126,002	125,508	124,897
NEI	22,636	28,619	35,555	36,843	41,228	39,947
NIEHS	16,942	19,361	25,889	30,305	28,338	28,684
DRR	123,323	127,149	130,211	135,785	128,059	82,700
FIC	2,857	3,732	4,357	4,644	4,762	4,784
Total, Research	1,030,226	1,165,208	1,475,053	1,716,710	1,739,070	1,785,922
NLM	19,253	21,430	24,111	28,413	26,254	27,738
B&F	1,615	---	3,565	8,500	8,000	3,000
OD	10,113	11,074	11,117	12,785	12,993	18,124
TOTAL, NIH BUDGET AUTHORITY	1,061,207	1,197,712	1,513,846	1,766,408	1,786,325	1,834,784

Question #3

Who actually is directing the program? The NCI Director? The NIH Director? The Secretary of HEW? The President's Cancer Panel? OMB? Or the President?

For example, who selects members of ad hoc advisory committees, which the Act says may be established?

Answer

The direction of the National Cancer Program is the responsibility of the Director, National Cancer Institute. The NCI is part of the National Institutes of Health within the Department of Health, Education, and Welfare, with special authorities given to the Director, NCI, by the Cancer Act of 1971. Under the Act, NCI's regular budget proposals are transmitted directly to the President. The Director, NIH, and Secretary, HEW, may comment, but not change the NCI budget requests. The policy and program decisions of the Director, NCI, are also rendered in concert with and based on evaluation of advice and counsel received from the National Cancer Advisory Board, special technical advisory committees composed primarily of nongovernment scientists, and senior Institute staff members. Policy and program decisions involving legal and administrative procedures are responsive to regulations promulgated by the Department of HEW and the Office of Management and Budget. The President has a special interest in the National Cancer Program and is kept apprised of the operations of the Program through the President's Cancer Panel.

Nominees for membership on ad hoc advisory committees are proposed by the Federal officials organizing the special groups, in this case administrators of the NCI. Appointment is contingent upon approval by program superiors and ultimately the Director, NCI. In addition, committee members are subject to approval in terms of NIH and Departmental guidelines regarding geographic representation, multiple committee membership, institutional representation, etc. Similar approval mechanisms exists for selection of members of standing committees.

Question #4

Do you believe it would be wise to make the NIH Director less tied to political appointment, by setting a time limit on his appointment, and having it confirmed by the Senate?

Answer

The National Cancer Act of 1972 made the positions of the NIH Director and the NCI Director Presidential appointments.

The position of the Director, NIH, should be filled by a competent scientist-administrator experienced in biomedical research. It has traditionally been filled by a Federal employee as a permanent career appointment. The characteristics considered essential to the position are scientific and administrative competence. We believe that the current methods of selection and appointment have satisfactorily addressed these important considerations. The proposal to make the NIH Director's appointment for a fixed term would not be in the best interests of effective management of the Department although the Department does not object to Senate confirmation of the NIH Director.

Question #5(a)

An NIH Committee, the Program Mechanisms Committee headed by Dr. Theodore Cooper, Director, National Heart and Lung Institute, made a study of the NIH contracting process, and in February of last year (1973), recommended that NIH adopt uniform policies and procedures for selecting both grants or contracts, to avoid conflict of interest in contract awards, and to expand to contracts the same kind of peer review system now applied for grants.

Have these recommendations been implemented for the research and development contract procedure?

Answer

The recommendations of the Program Mechanisms Committee have been accepted in principle and implementation is proceeding. The recommendations are very far reaching and implementation requires careful formulation, broad discussion, considerable examination of proposal details and perhaps even adoption by stages, based on preliminary trials of proposed procedures. The NIH is moving systematically toward putting them into effect and the Department's operational planning system is tracking progress.

Question #5(b)

Do you favor a form of peer review by outside experts for both contracts and grants?

Answer

Circumstances for peer review for research and development contracts are complex. In many cases, particularly those involving considerable innovative activity, technical merit review by scientific peers is completely appropriate and is currently employed by the NIH. In other instances where the nature of the project or problem comes close to resembling normal procurement activity, review by outside experts is not necessary. It would in fact be wasting the time of experts to review such routine activities since scientific content is not an important aspect of the project.

A substantial portion of senior NIH staff have been working for the last year to try to define more clearly the different circumstances which should and should not require peer review for various kinds of R&D projects. In view of the complexity of the system and the probable need for frequent adjustments, it would be unwise to establish such a system by statute.

Question #6

The National Cancer Advisory Board became concerned last year that the cancer grant program supporting "basic," investigator-initiated research was being downgraded in favor of NCI-directed, contracts for "targeted" research.

The Advisory Board voted almost unanimously to urge that no less than 50% of the available cancer money go to grants.

What is the percentage of grants versus contract awards now? What was the percentage in 1970, through 1973? What is your view on this matter?

Answer

The following percentages reflect the relationship between total research grant dollars and total research contract dollars spent by NCI between 1970 and 1975.

Fiscal Year	Grants	Contracts
1970	59.9%	40.1%
1971	54.9%	45.1%
1972	50.8%	49.2%
1973	54.0%	46.0%
1974 estimated	55.3%	44.7%
1975 estimated	57.4%	42.6%

It is NCI policy to strike a balance between the grant and contract mechanism. Grants are utilized to fund investigator-initiated projects while contracts are used to fund more highly targeted areas of research sometimes developed independently of the NCI and sometimes by NCI program leaders.

Question #7

It is our understanding that some $237 million has been spent on the Special Virus Cancer Program since it began in 1965, entirely on contracts and intramural research. The National Cancer Advisory Board named a special ad hoc committee to review the virus program.

What were the committee's recommendations, and what is the status of that program now?

Answer

The ad hoc Committee to review and evaluate the Special Virus Cancer Program of the National Cancer Institute submitted its final report to the National Cancer Advisory Board on March 19, 1974.

A copy of the report is attached. (See Zinder Report, N.C.I.)

Question #8

In August 1973, an ad hoc NIH "Committee on Testing for Environmental Chemical Carcinogens" issued a report recommending that more special attention be focused on this aspect of cancer research, and that a Federal Council on Environmental Carcinogenic Hazards be established, analogous to the Federal Radiation Council, which formulated Radiation Protection Standards.

Have the recommendations of this Committee been implemented?

Answer

The report of the ad hoc "Committee on Testing for Environmental Chemical Carcinogens" was submitted to the Director, National Cancer Institute on August 31, 1973. The recommendation to establish a Federal Council on Environmental Carcinogenic Hazards was considered and deferred pending organization of the DHEW Committee to Coordinate Toxicology and Related Programs, under the auspices of the Office of the Assistant Secretary for Health, DHEW. The latter Committee was organized and is chaired by the Director of the National Institute of Environmental Health Sciences, one of the NIH Institutes. The NCI is represented on that Committee by the Director, Division of Cancer Cause and Prevention. Consequently, and after consultation with Departmental, academic and staff representatives, the proposed Federal Council was considered duplicative and unnecessary. However, other recommendations of the Committee on Testing for Environmental Chemical Carcinogens, including the development of a national program for identification of chemical carcinogens and organization of an NCI Office of Interagency Carcinogenesis, have been implemented.

Question #9

What percentage of cancer money is going to Chemotherapy Research? Immunology Research? Virology Research? Hematology Research? Other research areas? (Identify.)

Answer

The NCI has a number of programs upon which special emphasis is placed. These programs represent areas of cancer research of significance due to the magnitude of the problems they address and/or the degree of progress being made in the area.

Program	Percentage of FY 1973 NCI Funds
Chemotherapy Research	16.4
Virus Cancer Research	15.0
Chemical Carcinogenesis Research	13.2
Immunology Research	5.3
Organ Site Task Forces	3.5
Other Research Areas	27.9
Resource Development (non-research)	18.7

Hematology research is not listed since it is not broken out as a separate entity by NCI programs and is not an area of special emphasis, except as it relates to the above listed areas.

Resource Development includes funding for Control Programs, Construction, Centers, Manpower, and Administration.

Question #10

We understand that platelet therapy has some potential for cancer research, as well as for aplastic anemia.

Is NCI funding such research, and how does the funding compare to that for such research in past years?

Answer

Platelet transfusions have become standard therapy for cancer patients whose ability to make platelets has been compromised by their disease, by radiotherapy or by chemotherapy. For over a decade NCI has been funding research for this important form of supportive therapy at an increasing level.

In this area of research, grant and collaborative funding has totalled as follows:

Fiscal Year	Grants	Collaborative (contracts and in-house)	Total
		(in millions)	
1971	$1.265	$ .815	$2.080
1972	1.454	1.044	2.498
1973	1.785	1.223	3.008
1974 estimated	1.915	1.427	3.342
1975 estimated	2.090	1.535	3.625

Question #11

Are there enough adequately trained researchers to carry out the potential expanded research in cancer? Do we need to support training of more researchers?

Answer

Currently, there are more than enough trained researchers to carry out the expanded cancer research effort.

The National Cancer Institute is presently conducting an analysis of the resources, including manpower, needed to implement the National Cancer Program Plan through fiscal year 1982. Two hundred fifty representatives of the cancer research community recently considered this issue at special planning sessions. Estimated levels of scientific manpower and distribution of scientists in Ph. D., M.D., and D.V.M. categories were developed for fiscal year 1972 based upon a stratified sampling of grants, contracts, in-house projects, and nongovernment institutions conducting cancer research activities.

This analysis indicated that roughly 10,500 scientists were involved in cancer research activities in fiscal year 1972. For fiscal year 1982, the National Cancer Program Plan projects estimated that a total of 28,400 scientific personnel would be needed to support the total range of cancer activities included in the plan. These estimates are based upon projected program levels in the National Cancer Program Plan and do not reflect any commitment for future funding levels.

The National Cancer Insitutes assists in the training of scientific personnel. The 1973 level of funding was $14 million; in 1974 the level increased to $22 million; and the 1975 requested appropriation maintains that $22 million level.

The Administration's new postdoctoral fellowship program will provide for necessary advanced training in research, not only in cancer but in other specified shortage areas in biomedical and health-related sciences. Approximately $30 million will be available this fiscal year (and $60 million next fiscal year) for two types of awards: (1) the Postdoctoral Research Fellowship to individuals which will provide a yearly $10,000 stipend to the recipient and up to $3,000 to the institution at which each fellow trains; and (2) a small number of Institional Research Fellowship Awards to be made to institutions for the support of individuals at the postdoctoral level.

The new fellowship program was adopted because the fellowships can be allocated to specific biomedical research areas where there are critical manpower shortages and demonstrated national need. Because of the availability increased amounts of general student assistance

Answer #11 (continued)

such as loan guarantee programs of the Office of Education, postdoctoral students can be expected to bear the costs of their own training. At the same time, postdoctoral students in areas in which there are manpower shortages will receive Federal aid under the new fellowship program.

Question #12

Should Federal support continue for predoctoral research training, as well as for postdoctoral training?

Answer

It is our view that as the old style NIH training grants, including those which supported predoctoral research training, should be phased out over the next several years, career incentives will continue to provide adequate numbers of predoctoral graduate students in the biomedical sciences. If there are realistic indications the Department will look into alternative ways to prevent any such serious shortages. We are, of course, monitoring the biomedical research manpower situation very carefully and there have been no indications to date of detrimental changes.

Question #13

In a January 24, 1974, letter to the Washington Post, responding to an editorial, which, in turn, discussed Dr. John Sherman's resignation as Deputy Director of NIH, Dr. Edwards made reference to NIH leadership not having been "more perceptive and responsive" so as to prevent the "removal of the cancer research effort from the administrative control of NIH, a move that threatens the further dissolution of biomedical research efforts."

Quite clearly, the leadership at NIH opposed creating a special status for cancer at the time the Congress was debating the Cancer Act. The HEW Department and the White House changed positions several times, from supporting a separate cancer status to opposing it, to supporting a modified semi-independent status.

In what way should the NIH leadership, which consistently opposed an independent cancer research effort, have acted differently?

Answer

It is true that the NIH leadership consistently opposed an independent cancer research effort. It did so in good faith on its implicit judgments of the impact of "separatism" of the National Cancer Institute from the remainder of the NIH. Perhaps had the leadership at NIH converted its implicit judgment to more explicit explanations of the scientific basis for the judgment it could have been more effective. Perhaps a formal written critique of potential consequences on the dissolution of the national biomedical research effort could have been more persuasive to those segments proposing the various organizational relationships between the NCI and the NIH. On the other hand, there were many advocates in the Congress and from among various sectors of the scientific community who were arguing forcefully that an expanded cancer research effort, to be successful, needed an organizational arrangement different from what was in existence at the time.

ZINDER REPORT

On March 5, 1973 Dr. Frank Rauscher, Jr. at the request of the National Cancer Board appointed this ad hoc committee to conduct a review of the Special Virus Cancer Program of the National Cancer Institute and deliver a report of its findings and recommendations for the future. This document is our report. It represents the sum of our deliberations to date. We are willing to continue our review, should the Board desire additional information or analysis.

Since the SVCP represents one of the largest contract programs in the NIH, amounting to some 12% of the annual NCI budget, and thus might be considered the paradigm for such programs, we have interpreted the term "review" in the broadest of contexts. We have therefore attempted to analyze as far as possible, in the limited time available, all aspects of this program except those at the Detrick Cancer Center.

COMMITTEE

Dr. Norton Zinder (Chairman)
Dr. James Darnell
Dr. Vittorio Defendi
Dr. Robert Good
Dr. Keith Porter
Dr. James Price
Dr. Wallace P. Rowe
Dr. Aaron Shatkin
Dr. Chandler Stetson
Dr. Richard Tjalma*

Dr. Maurice Guss (Executive Secretary, NCI)

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*Resigned due to appointment to the NCI

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REVIEW PROCEDURES

Meetings

1. Organization
2. With Segment Chairmen and Program Management Segment
3. Attendance at one Segment Chairman's Meeting
4. Attendance at one Segment Committee meeting, the Solid Tumor Virus Working Group
5. With members of the working committees - overlaps with some contractors so dual in purpose
6. Attendance at Pacific Coast Meeting of Solid Tumor Virus Segment
7. Site Visits
    - a) Flow Labs Contract 33247
    - b) Litton-Bionetics, Bethesda, Md. Contract 73-3230
    - c) University of Southern California, Contract 68-1030
8. Discussion of analysis of large contracts, results of our survey and our report

Documents

1. Two years of summaries of annual reports
2. One semi-annual report
3. Questionnaire to the users of resources and services as to quality and need
    - a) Comments on program occasionally included in the responses
4. All (36) current contracts that are funded at

$300,000 or more per annum were reviewed. Each committee member reviewed four contracts, distributed as far as was possible on the basis of their individual area of expertise. The total sum represented by these contracts was over $32,000,000; a major portion of the program.

INTRODUCTION

The scientific rationale for an intensive study of the role of viruses in human cancer is well founded. It is not the purpose of this report to document this hypothesis, but we must point out that it is not only the opinion of this committee but of the scientific community-at-large that a virus etiology for some human cancers is probable. This point will be elaborated on because it provides an important part of the rationale for our recommendations.

In several animal species, viruses have been shown to be directly involved in cancer causation, these include sarcomas and leukemias in chickens, mice and cats, and breast carcinoma in mice. The viruses involved include both DNA and RNA-containing types. In addition, certain viruses, when injected into newborn animals, cause a variety of tumors later in life, although their role in natural populations is less clear. Similarly, many viruses, again of both kinds, cause the kind of changes in tissue culture cells, including human, that we have come to associate with malignant change. The situation, however, is complex, for despite the fact that these results are not too surprising--since in essence viral infection or expression is the impingement of one genotype upon another genotype--we know from detailed studies of viral infections in bacteria that there are a variety of ways in which virus infected cells can be heritably changed. These include transduction (the transfer of genes from one host to another) conversion (the change in a variety of cell properties upon lysogenization) and mutation (the insertion of a prophage into a gene, thereby inactivating it).

Viruses can be transmitted in populations both vertically and horizontally. Vertical transmission can either resemble the inheritance of any other gene or alternatively be the result of congenital transmission from parent to progeny. Horizontal transmission of viruses is similar to the transmission of any other infectious agent.

At present there is no positive and considerable negative epidemiological evidence that cancer in man is an infectious disease. Also, despite much effort and expenditure of funds, no definitive human cancer virus has been isolated.

Why then go on? There are several good reasons. For one, the understanding of how known cancer viruses produce malignant change in other living forms could reveal unsuspected approaches to human cancer. Secondly, because of the complexity of some oncogenic viruses and their mode of inheritance, it is possible that in an outbred population such as the human one, it will be difficult to find viral particles _per se_ or a host to grow them on. Again, there is no scientific rationale at the moment why what is true for other mammals should not also be true of humans. Furthermore, if viruses or viral gene products are involved in human cancer, specific diagnostic, preventative and curative procedures might then be available, although even on this point we should not be too sanguine. A final point must be made. At the present time the most rapid and reproducible way to change experimentally a normal cell to a cancer cell is by infecting it with certain viruses. Moreover, in some instances specific viral gene products have been implicated. Thus, for the first time in the long history of study on cancer etiology, a specific agent causes a known tumor with a high probability. From the point of view of understanding how a transformed cell differs from a normal cell, viral infection confers a tremendous advantage for basic studies. The tumor cell caused by a given virus always presents the same immunologically recognizable changes. It may therefore be possible to determine what chemical changes in a cell are responsible for at least one cancer phenotype. Basic studies with other carcinogens may not be as experimentally simple and useful as are studies with oncogenic viruses.

The question to be considered then is not whether viral oncology, broadly defined, deserves support but what are the best mechanisms to support research in the promising area of viral oncology.

VIRAL ONCOLOGY AND THE SVCP

Since in many ways all studies of cell biology, virology and certain areas of immunology and genetics relate to our understanding of cancer, it is difficult to analyze NIH support for viral oncology. The figures given to us by the SVCP, imply that for F.Y. 1972, approximately $120 million was awarded in support of approximately 2,000 grants in the area of virology in all of the NIH, of which about $58,000,000 went to studies which are in some way related to cancer. The support of viral oncology within the National Cancer Institute but outside the SVCP was about $7 million for about 100 grants. The SVCP distributed $42 million through 131 contracts in F.Y. 1972. Clearly the SVCP funding of viral oncology overshadows the same area in NCI as a whole and approaches the total NIH effort. However, it supports only a small fraction of the relevant scientific community.

This brings us in essence to the charge of this review committee. Should this single funding instrument as it currently operates have so large a fraction of the resources that support cancer virology at its disposal? It is the view of this ad hoc committee that the answer to this question is "No". Since we also believe that the funds available through the SVCP are appropriate, the rest of this report will attempt to justify this conclusion and offer a series of recommendations as to how the SVCP should operate in the future in order to maximize its impact on viral oncology. These recommendations are designed to take advantage of the ideas and efforts of a much larger segment of the scientific community.

JUSTIFICATION FOR THE SVCP

The SVCP was set up in 1964 as a special contract program within the NCI "on the conviction that there existed sufficient knowledge and information and technical capability to plan and implement an intensified coordinated program, the main objectives of which were to: 1) determine whether viruses comparable to those known to induce cancers in laboratory and domestic animals are also etiological agents of human cancer, and 2) to develop effective means for the prevention and/or control of human cancers when such etiological agents are found." It is now 10 years, and a quarter of a billion dollars later, and the same two objectives remain. It was the assumptions that were wrong. There did not, nor does there exist, sufficient knowledge to mount such a narrowly targeted program. Basic ignorance of the mechanism involved in the cancer process, even in animals where a viral etiology is definitively established, is so profound that it is difficult to be certain where to begin, much less organize a focused attack.

We do, however, agree with objective (1) as an appropriate and high priority goal for an NCI program independent of the original assumptions. Early on the SVCP was focused on this point, and the contract program was initiated to facilitate work in this direction which clearly could not be done through the grant mechanism. Large screening programs, production of high quality standardized reagents for general distribution, procurement, storage, and distribution of optimal clinical materials, and increased coordination and information flow between investigators were seen as objectives requiring a unique mechanism for support and administration. It is in precisely these areas that the SVCP has made significant contributions to viral oncology.

Objective (2), although the obvious goal of the program, is where the serious and destructive aspects of the SVCP approach have their roots. The underlying assumption was, and in large part still is, that once human cancer viruses are found, they will be controllable by anti-viral vaccines. The analogy with the control of poliomyelitis is the guiding principle; that is, that knowledge of the virology and natural history of the infection is sufficient to achieve control, and that detailed understanding of the disease mechanism is unnecessary for the successful outcome of the program.

Unquestioning acceptance of this assumption would justify the conclusion that most of the basic information needed to solve the cancer problem is already at hand, that a directed program can achieve the objective, and that a definitive result can be obtained within a relatively short period of time. It is apparent that the NCI gave relatively high credence to this assumption.

In short, we agree with the goal of identifying human cancer viruses and evaluating their role in the etiology of cancer, but reject the concept that this holds sufficient promise for a short term solution to the cancer problem to justify compromising basic research in this and other areas. The search for cancer viruses is an essential and feasible part of the long range attack on cancer, but must be viewed as a high risk, high payoff gamble in terms of short range benefits. Even a restructured SVCP should be an "in-addition-to", rather than an "instead-of" program.

Another justification for the program that was given was the necessity to interest the scientific community in the problem. This may have been true in 1964 but is not today. With progress in the cellular and molecular areas of biology, which earlier came mainly from work with bacteria and their viruses, the natural evolution of the science was to move to the more complicated cell. As probes of cell function, viruses have no peer. We now see a generation of biologists trained in the biology of prokaryotes, moving on to use their skills in the analysis of the eukaryotic cell. Fortunately the necessary technology to handle such cells and their viruses was also developed during this period, so that an unplanned but obvious "convergence" of effort is now in progress. With rare exceptions it is the nature of scientific endeavor to move, given the freedom and funds, in the direction that it can move. New discoveries are quickly integrated into the body of knowledge and exploited by the imagination and work of the best scientists.

CURRENT STRUCTURE AND REVIEW PROCEDURES OF SVCP

The original direct scientific targets of the SVCP, such as evaluating adenoviruses as causes of human cancer, were relatively clearly defined, and relatively easily managed. Perhaps for the reason described in the preceding section--acceptance of the notion of an easily obtainable cancer vaccine--the program grew both in funds and scope. This is now exemplified by the complex research-logic-flow chart. It contains targets that are far broader, are longer range, involve model animal systems, involve searches for candidate viruses and encompass a wide range of basic research areas. All of this is managed from in-house, with the great majority of currently funded contracts solicited by the NCI.

The current organizational structure of the SVCP divides it into several segments, including Biohazard Control, Breast Cancer, Developmental Research, Solid Tumor Viruses, Tumor Virus Detection and Viral Immuno-Epidemiology. Supporting these is the Office of Program Resources and Logistics. Each segment has a Program Segment Chairman, a supporting staff, and a working group for scientific review.

In a meeting chaired by the Associate Director for Viral Oncology, the Program Segment Chairmen and their staffs meet once a month for discussion of policy and review of new and renewal contracts. This group votes on each contract, primarily on the basis of relevance and need. The vote for approval or disapproval is open; if approval is voted, there is a secret ballot for priority level. Voting members in the Segment Chairman's group include the Segment Chairman and Vice-Chairmen, plus three or four NCI staff (administrative personnel). If the contract receives a sufficiently high priority level, it is then submitted to a working group for scientific review. We asked Dr. W. Rowe to attend one of these meetings and quote his letter to this Committee:

"I attended a half-day of the meeting, during which time 6 contracts were discussed. In these discussions several positive features emerged, the common denominator of which is that the Segment Chairmen take their jobs seriously, and try to be conscientious in overseeing the program. Serious scrutiny was given to the question of whether one particular contract would not be much more appropriate to a different segment; for another contract, the suggestion was made that it might be transferred out of SVCP to the Immunology program under Bill Terry; another contract was strongly challenged because of the lack of publication in the past two years; a site visit was suggested for one contract. The scientific aspects of the contracts were briefly outlined, and a number of suggestions were made about what techniques and directions the contractors might find useful. There was essentially no discussion of budget, other than one contract being called into question because of low productivity in relation to cost.

I had several negative impressions, most of which happened to relate to the discussion of a contract with Life

Sciences, Inc., studying the interrelation of C-type viruses and the Marek herpes virus in germfree chickens and the nature of Marek's disease. First, I had the strong impression that none of the Segment Chairmen had any first-hand knowledge of Marek's disease; this feeling resulted chiefly from the lack of any attempt to put this work in context of the whole field of Marek's disease research--it felt as if this contract was the only information there was on this disease. I am sure that many situations are bound to arise where an important field develops which is not in the areas of expertise of the Segment Chairmen, but there is no mechanism to try to deal with this problem. Second, one of the Segment Chairmen objected to this contract as not being sufficiently relevant to the goals of the SVCP, on the grounds that the immunological system of the chicken is so different from that of man that it is not a valid model. Since the SVCP does include model systems in its domain, this is a disturbingly narrow interpretation of models. Fortunately, the other Segment Chairmen did not share this view. Third, in the course of discussion of the impact of possibly phasing out this contract, mention was made that this company is entirely supported by its three SVCP contracts. This seems to create a dangerous situation where cancelling a contract could destroy a company; any personal loyalties that may have developed could become overriding.

Another negative aspect is that in several cases the scientific justification for renewing some of the contracts was recent preliminary findings. No hard data were presented, and there was no critical evaluation. Perhaps this is considered the role of the working groups, but from my experience on such a group, this would not take place. This problem is probably due to the concept that the role of the contract program is to speed up the pace of research. I am sure that this lack of step-by-step critical evaluation leads to inefficiency in granting of funds."

We have here pinpointed one of the most serious weaknesses of the program. The Segment Chairmen have too much power. The whole program is in large part primarily an NCI in-house operation, and those who run it are also often the recipients of large amounts of the money they dispense (see below). They tend to come from a narrow section of the scientific community and certainly were not originally selected for NCI employment on the basis of their ability to run large contract programs. When the Segment Chairmen decide that a particular scientific problem should be studied, usually this study is delegated to a friendly colleague. This is not necessarily bad, but can lead ultimately to problems. For example, when the work is finished or the contractor fails to produce, understandably it becomes difficult to terminate the contract. Again, since the contracts generally involve large amounts of money, an equity is developed in the work of a particular contractor. Failure on his part leads to an attempt to prop up his program with more money support instead of more appropriate phasing out or termination. The information we received indicates that it is more difficult to terminate a bad contract than an unproductive grant.

Contracts which have been approved by the Segment Chairmen are then presented to one of the segment working groups for review. Except for the Biohazard and Breast Cancer segments (smallest units) there is no programmatic theme within the segments. The same kinds of work are done by contractors in each of the other segments. The rationale for the distribution of a particular contract to a particular working group has never been made clear to us; it appears to be determined by the interests of and perhaps personal relationship to a Segment Chairman.

The working groups have been chosen by the Segment Chairmen for the most part from the small pool of contractors and NCI people. Thus their backgrounds and areas of competence tend to coincide with that of the Segment Chairmen. Interviews by this ad hoc committee with members of these working groups disclosed that they found this work unrewarding and unsatisfactory. They had little knowledge of the program in total, felt powerless to suggest changes, and felt a great deal of unease at the lack of critical review. When asked to compare their experiences on program segments and on grant study sections, they replied that in their work on the latter the peer review was serious and stringent, whereas in the former it was perfunctory. They were hard pressed to recall if they had ever rejected a contract. In addition, one member of a working segment who also served in study sections, wrote to the committee that he considered the working segments he serves on a "farce" when compared to study sections. He maintained that less than half of the contract proposals would have been funded by a real peer review.

Drs. Defendi and Zinder attended one meeting of the Solid Tumor Virus working segment and their observation of its mode of operation confirmed the testimony we had received. Only six contracts were to be reviewed that day. Most of the time was used by oral presentations by either the Principal Investigator or the Project Officer. The questioning was quite gentle. One had the impression that since there was to be an oral presentation the proposals had not been read by the committee. The contractor or project officer was then asked to leave and a perfunctory discussion took place. No hard questions were asked about the scientific contents of the proposal, the past productivity of the contractor or the program relevance. The budget was not even mentioned, let alone analyzed. It should be noted that nowhere in the proposals or in the contract summary sheet was the total support of the laboratory given. Even when some reservations were expressed about the competence of the contractor and his group in various of the proposed areas of research, the remedy suggested was that new people might be hired to cover these areas rather than seek a more appropriate contractor. This is a strange interpretation of what a contract should be. One contract was renewed with only a nine line summary of the proposed work. The suggestion was made that the contractor be informed that next time he had better write a more detailed proposal. All contracts were approved with no priority considered. Clearly funds were available and the committee considered that these matters had been settled beforehand.

In recent times the peer review study section system has come under attack for being solely a judge of scientific merit and having little impact on programs. The members of this review committee who have also served on study sections believe that more program relevance and direction comes from study sections than from these segment work committees. Suggestions from the study sections for experiments and even modification of direction are often transmitted to the Principal Investigator. During our attendance at the Solid Tumor Virus working segment meeting, Dr. Hayflick, a Principal Investigator with a contract up for renewal, asked the committee for some guidance. He provides the Mycoplasma testing service and felt that he could not handle more than a certain number of tests per year. He was advised by the committee to restict his service to SVCP contractors. Considering that this is an important service to those working with cells and viruses in culture, one might have thought that consideration would have been given to how his operation could be expanded or another contract let. This lack of consideration of the problem was most surprising, for it is precisely in such areas that contract programs have proved to be most effective and useful, a matter to which we will return later.

Admittedly some of the foregoing discussion is anecdotal, we attended only one meeting of the Segment Chairmen, and one meeting of one of several working segments. However we did interview 10 members of working segments, received a phone call from another and a letter from still another. This collective experience bears out our general conclusions.

It seems rather paradoxical that peer group evaluation is given by people who openly express dissatisfaction with the procedures and confess to have no input into the program. This may be a natural outcome of the fact that members of the working groups are generally also recipients of generously funded contracts. There is also a trend for new members of the working groups to become contractors. Until last June contractors often sat on the same committee which reviewed their own contracts. The new directive from the NCI eliminating this situation has therefore caused some reshuffling of the committees. However, they are still drawn from the same small pool, and since a Segment Chairman has a degree of control over contracts in other segments, contractors who sit as members of working groups may well feel inhibited from being fully critical. Being only human, the contractors on working groups are in an almost untenable position.

It was only natural that when the SVCP was formed a small group of investigators was involved--an "in group". It now represents a somewhat larger "in group" of investigators. Administratively its procedures lack vigor, are apparently attuned to the benefit of staff personnel and are full of conflicts of interest. Because the direct targets have become fuzzy since 1964, although the available funds for the program continued to grow, the program seems to have become an end in itself, its existence justifying its further existence. In doing so, it is eroding what is good in both the grant and contract mechanisms, a fact which may account for the wide spread antipathy to SVCP in the scientific community.

CONTRACT ANALYSIS

There are essentially four types of efforts that are funded by the SVCP. These include: 1) resources and services; 2) extramural extensions of in-house work; 3) large departmental or program project grants; 4) something akin to the average research grant.

Resources

The contracts for resources are generally given to private industry or hospitals. They contract to provide standard virus preparations, antisera to whole viruses and to certain specific viral components, standard cell cultures, and animals of known genetic constitution. Hospitals provide fresh biopsy materials. In addition, there are certain testing programs such as screening for mycoplasma, screening sera for the presence of particular antibodies and testing cell cultures, virus stocks and animals for viral contamination. These resources and services are provided upon request to, in decreasing priority, in-house scientists, SVCP contractors and other scientists. Appropriately associated with these contracts are research efforts to improve production, etc.

This ad hoc committee initiated a survey to ascertain the usefulness of this part of the program. From a mailing list of 300 persons, about 200 responses have been received to date. Several significant points emerged (see Appendix 1). The recent consolidation of this area of the SVCP into the Office of Program Resources and Logistics, rather than being spread through the various segments, has resulted in a marked improvement in the service. With few exceptions, all of the respondents maintained that these resources were indispensible for their programs. They either did not have the expertise or the facilities to prepare these reagents or maintain the animals themselves, or it would have required an inordinate amount of effort on their part to do so. For the most part, the requests were handled expeditiously. The consensus was that except for certain viruses the quality of the materials was good to excellent. This latter statement must be qualified only in the sense that many did not comment on the quality. From the absence of complaint, we can assume that they were satisfied. The survey as written by the committee contained essentially five questions: what did you request?; what did you receive?; what was the quality of the material, do you know who prepared the material and what was the usefulness of the resources relative to preparing your own materials. Unfortunately, when the Office of Management and Budget rewrote the questionnaire, the first three questions were fused into one, probably causing some confusion. The raw data will be given to Dr. J. Gruber of the Office of Program Resources and Logistics, to provide him with the kinds of information that the recipients desire when receiving reagents, etc. and the names of contractors whose quality control might be questionable. It is surprising that such feedback is not already built into the program.

Although we must carefully separate in our thinking the provision of resources and services from the scientific use to which they are ultimately put--the latter depends on the competence of the investigator--we have here evidence for what a contract program can best do for the scientific community. Many contractors unselfishly commented that they would like to see these resources made more widely available.

Intramural Extensions

This is perhaps the most difficult area of the SVCP to analyze, for it touches in part on the role of Project Officer. Since this is a contract program, each contractor is assigned a Project Officer from the NCI scientific staff. The role of Project Officer varies from unawareness of his position as such, through benign neglect, to overseeing the day to day operations of the contract. Nowhere in the contract proposals, reports or analyses per se is it possible to determine his role precisely. However, from the information Dr. Guss has provided, and our own analysis, the extensions of intramural activities of project officers are those of, 1) Dr. R. Huebner at Microbiological Associates, Flow Labs and to a lesser extent at the University of Southern California; 2) Dr. G. Todaro at Meloy Labs; 3) Dr. C. Boone at Meloy Labs; 4) Dr. R. Gallo at Litton-Bionetics; 5) Dr. S. Aaronson at Hazelton Labs; and 6) Dr. R. Bassin at Litton-Bionetics. The aggregate funding of these operations is over $10 million per annum or about one-fourth of the toal program. We may note that for the most part these contracts are with private industries located in the Bethesda area. In addition, some other NCI staff scientists work at these various laboratories. The arguments given in conversation with the NCI people in favor of such an arrangement are that (paraphrased quotes from various individuals) "it is impossible to work at the NCI itself as there is no space, the buildings there are poorly designed, federal procurement procedures are terribly slow, the NCI is filled with old fuddy-duddies--etc. etc." It should be pointed out that some of these scientists are very creative individuals who make important contributions to science.

However, even if all the science were of the highest quality, which is not the case, there is much redundancy and overlap in the work scope and the contracts themselves are very diffuse about the goals. They are extremely difficult to analyze because they contain so many disparate elements. Many are almost miniature reflections of the total SVCP program.

We seem also to have the peculiar situation of NCI staff scientists writing contracts for private industry, the monies from which are used to support their own work. These contracts go for first review to the Segment Chairmen Committee of which they are often members, and then to the working groups, which they may either chair or sit on and which often contain close friends and colleagues. NCI staff scientists also move about from one of these local contractors to another, in what can only be interpreted as an effort to support these contractors. Further comment on such modes of operation would be superfluous.

We can only guess that having to "review" contracts of the type described above accounts in part for the sense of frustration felt by some members of the working groups. No one really likes to spend his time acting as a rubber stamp.

Program Project Grants

These represent large contracts which essentially buy the output of an entire university department. They pay the salaries of all personnel from the professors to the janitor and provide the equipment and materials for all. When judiciously chosen they can free a principal investigator from financial worries for a number of years and allow him to try out new and innovative procedures without fear of loss of funding due to failure. Competently performed experiments even with negative results are often of great import. Some of the best science in the SVCP, and some of the most pedestrian, is currently carried out under such contracts.

The difficulty in evaluating such contracts results from the fact that they generally contain a large number of incompletely described subjects for study. These can include electron-microscopic surveys of biopsy material, reverse-transcriptase assays, the isolation of virus mutants, and on and on.

In this aspect they resemble the large diffuse contracts of the intramural extensions. It is clear that the principal investigators feel that in order to justify the large amounts of monies needed to fund their large staffs, they list in their proposals everything that is currently in fashion. Such unrealistic and diffuse proposals would be rejected by study sections on these grounds alone. It is strange that they are supported by a contract program which is supposed to have a clearly defined goal.

Small Grants

Of the contracts, a small fraction monetarily, but perhaps some of the most productive scientifically, are analogous to simple research grants. In principle, such contracts could be used as add-ons in fundings to the best investigators in order to allow them to try out scientifically novel but risky approaches. The difficulty lies in the fact that many of these contracts are not of this kind but rather support Principal Investigators whose proposals received modest review in study sections, according to members of study sections who have had the opportunity to see them at both the grant and contract level. Such contracts also often have the flavor of continuation of the principal investigators'ongoing endeavors, sometimes with slight changes for program relevance. It must be recalled that under the rubric of cancer research almost any research in cell biology or virology could be fitted.

SUMMARY

The question has been asked of this committee whether the research sponsored by the SVCP is of the same quality as that under the grant system. Our answer is implicit in the analysis given above. More explicitly, in the reviews by members of this committee of the larger research contracts the words "overblown", "overambitious", "too diffuse", "high cost relative to yield" recur over and over. There seems to be some redundancy in the contracts for resources. These contracts as currently written, generally do not indicate the nature of the quality control that is employed or the rationale for particular production methodologies.

We are quite sure that much more would have been accomplished if equal support had been provided on a competitive basis to many more laboratories with greater capability and experience in particular areas. We illustrate this point with the following example:

In analyzing the large contract to Flow Labs and following a site visit, the Chairman of this ad hoc committee found that one of the major endeavors at the moment is in the amino-acid sequencing of the gs antigens from a variety of RNA tumor viruses. This contractor had hitherto no expertise in protein chemistry, and therefore two years ago it became necessary for him to buy all of the heavy equipment needed and to hire new personnel for this task; it is very expensive to set up such a laboratory. Since this is an important scientific problem, the Chairman of this Committee asked a number of very competent protein chemists what might have happened had a widely publicized Request For Proposal gone out in this area. Were all the good protein chemists so busy and their machines so completely in use, that analysis of other proteins would not have been considered? He was told that no protein chemist can afford to keep his machines running full-time, nor could he sustain the personnel and reagents to do so. Thus, given modest amounts of money for a few technicians, reagents and materials, established protein chemists might have considered undertaking this project. The SVCP not only had to set up a new laboratory but perhaps, more importantly, may have lost the opportunity to interest another segment of the scientific community in the cancer problem.

RECOMMENDATIONS

Since our review of the SVCP has a negative tone, one might suggest that the program be abandoned. We feel that this would definitely be a mistake. The original notion that there ought to be an integrated program on the study of the relationship of viruses to human cancer was, and still is, a good one. The mistake that led to the excesses we describe was primarily one of management. The program was allowed to grow from the inside out. The vision that established the program was sound, but the underlying philosophy that the role of management of fundamental science is the same as the role of management for engineering or development when the fundamental knowledge is available, was sadly in error. Instead of allowing the direction of the scientific program to come from the working scientists by opening it to all, the program appears to have been a closed operation from its start.

Success in science is an irregular and unpredictable phenomenon. When and where important discoveries are and will be made is almost impossible to determine in advance. The goal should be to maximize the opportunities. This of course does not assure success; all that can be stated is that if experiments are not done there certainly will be no success. Were success assured it would no longer be a question of science. Therefore, our recommendations have as their goal the opening of the program to scientists at the program, decision and working levels.

We believe that there are three features of the SVCP that should be conserved:

1. It should remain an integrated program where communication and collaboration are encouraged between the investigators by frequent meetings at which projects are discussed. Program Chairmen can serve as fairly selfless catalysts in a way that executive secretaries of study sections cannot. The receipt by contractors of the summaries of the annual reports of all other contractors cannot help but be stimulating, although here we strongly recommend that an analytical index of the summaries be prepared. This will serve not only contractors, but also segment chairmen and review committees, as a means to achieve natural collaborations and the avoidance of a redundancy of efforts.

2. The program should continue to provide standardized reagents, viruses, cells and animals in addition to providing certain supportive testing programs for the investigators. It is clear that few laboratories could provide these for themselves without developing peripheral facilities which would only consume time and money and inhibit many lines of research.

3. There are kinds of developmental research and clinical and animal screening programs that could never compete in the current study sections for funding, but which are absolutely necessary and therefore can only be supported by an integrated program.

To achieve the above stated goals we make the following recommendations to serve as a guideline for restructuring the SVCP.

The Intramural Program

1. A Steering Committee shall be appointed by the National Cancer Board to provide overall administrative leadership and guidance. This committee shall consist of the Segment Chairmen and a number of scientists greater than the number of Segment Chairmen. These scientists should be appointed from outside the NCI and would serve no more than four years. They should not be recipients of support from this program. They should approve the appointments of new Segment Chairmen and members of the working groups. They should assist in setting priorities for the research efforts of the program. They should oversee the segments and have the responsibility for reorganization of segments as new developments in the field may warrant (see below, 8).

2. The Office of Program Resources and Logistics should be maintained much as it is. The recent removal of these resources from the control of the segments themselves has met with universal approval. Time did not permit detailed analysis of possible redundancy in the contracts relating to services and reagent preparation, but it seems to exist. Quality control could be improved. Simple feedback to this office after receipt of materials by the investigators would provide a quick indicator of any developing problems. The Chairman

of this segment should have an advisory board including NCI personnel, individuals from other relevant areas of NIH and some outside scientists. These individuals should have some expertise in the problems associated with reagent production and testing. They should set up standards for monitoring quality control.

The availability of materials and services should be widely advertized and open to the scientific community-at-large, and provided on the basis of merit. No longer should highly qualified scientists be unable to obtain certain reagents simply because they are not in the program.

This office should be sensitive to recommendations that may arise from the working groups for the types of resources that are needed. It should report regularly to the Steering Committee to discuss the determination of priorities, both for reagent production and distribution.

3. With regard to the intramural program, we did not feel it to be in our purview to look into the allegations of some of the NCI personnel regarding the difficulties in working on the "reservation." This is perhaps an area that the Cancer Board might want to look at more closely. However, we feel that all NCI staff should work either in space on the reservation or if necessary in space and with services rented on the outside. Their funds should come from the NCI in-house budget, not from the extramural program. They should be subject to the same rules as other NIH scientists. NCI

staff should not be put in the embarrassing, if not illegal, position of writing contracts for other contractors to support their own work. We do strongly support the continuation and strengthening of the in-house viral oncology program. It should be provided with adequate space, personnel slots and funding. Competent personnel would then be readily available to provide advice to the Office of Program Resources and to outside contractors.

The Extramural Program

4. During the course of the next two to three years, all working groups should be reconstituted. Since except for the Office of Program Resources and Logistics we do not at this time see a logical division of the segments, we would favor setting up about five working groups. Each is to have a Segment Chairman salaried by the NCI and, if possible, chosen from the outside scientific community, with counsel and approval from the Director of NCI and the National Cancer Board. Should the current Segment Chairmen choose to continue to serve they should give up their roles as in-house program managers.

5. The working groups should consist of more than half non-NCI personnel appointed for a maximum period of four years, and initially mainly of scientists not currently in the SVCP. One can envision such groups as consisting of 2 cell biologists, 2 animal virologists, an immunologist, an

oncologist-physician and a geneticist. They should be chosen by the Steering Committee.

6. These groups should have the authority to rate priorities, including refusal or decreased funding of proposals. They should see all of the submitted proposals and letters of interest and be advised of their fates. There should be no overriding of their decisions without justification.

7. These working groups should be composed of people who are willing to give up many other activities while serving. The meetings of the working groups should not only consider the current set of proposals but have sufficient time to participate in program direction. They should have the authority to generate proposals. Thus they should meet at least once a year with the Steering Committee.

8. Under the guidance of the Steering Committee, these working groups might evolve in time, as developments in the field warrant, into segments with a particular programmatic theme.

9. All current contractors should be notified that their contracts will be terminated over the next three years.

10. A public and widely advertized announcement should be made to the scientific community that the Viral Oncology Program is open to proposals. Current contractors can of course compete. This procedure will not only allow the weak contractors an opportunity to seek other funding or make other

arrangements, but also have the salutory effect of making even potentially successful contractors rethink their programs. What has amounted to almost automatic contract renewal can only have had a stultifying effect on the current contractors, accounting in part for the poor quality of some of the research done to date. A little competition should be stimulating.

11. These proposals would then come to the newly constituted working groups and be distributed more or less at random for consideration. The Segment Chairmen might distribute some on the basis of special expertise available in a particular working group.

12. The procedure of inviting the Principal Investigator or his Project Officer to present his work should be abolished. It would leave more time for deliberation. Also it is difficult for even the most objective of us to turn down an individual who was earlier in the room presenting his case. When necessary, site visits can be arranged.

As we discussed in the Introduction, considering the scientific promise of viral oncology, it is appropriate that the NCI continue to allocate some 10 percent of its budget to this program. However, we have intentionally avoided describing the mechanism of funding as either contract or grant. We have found only contradiction and confusion between these two mechanisms as currently understood and interpreted by contract officers on the one hand, and contractors on the other. We stress rather the integrated and coordinate nature of the program; some proposals must be contracts--those to private industry--while others can be called whatever seems appropriate. The common theme is the effort to determine the role of viruses in human cancer; format should not be allowed to stand in the way.

GENERAL COMMENTS

Although this committee could not interpret its charge to include the general scene in the suport of biomedical science today, we feel we would be remiss if we did not bring to the attention of the National Cancer Board certain features that disturb us. Simultaneously with the growth of targeted or non-investigator initiated programs, the support base for fundamental science is being eroded. Perhaps in no area as more than in Cancer Research is ~~is it necessary for~~ a strong and broadly based biological research endeavor necessary. It is more than possible that none of our current approaches to the problem are on the right tack simply because we lack the fundamental knowledge to see even indirectly our way to the clear water. Not only is generalized grant support in areas critical to Cancer Biology being decreased but also training programs from which our future scientists are to be derived are also being undermined. Where are the researchers of tomorrow to come from? Large targeted programs usually are not the proper environment for training of new and creative scientists. They tend to lead to niche filling, thereby inhibiting the development of investigators who can think independently.

We support the National Cancer Board in its efforts to restore training grants and would recommend that it similarly use its influence to promote the general health of biomedical research throughout the NIH.

While recognizing that budgets must be prepared years .

in advance, the Board should do its best to see that at least within the NCI, funds can be transferred from one area to another when the quality rating of proposals merits reallocation.

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH

TO : The Record

DATE: March 26, 1974

FROM : Executive Secretary, National Cancer Advisory Board, National Cancer Institute

SUBJECT: Zinder Report

It should be noted that the draft version of the Zinder Committee Report, submitted for consideration to the National Cancer Advisory Board on November 27, 1973 and subsequently referred back to the Zinder Committee for finalization, was resubmitted to the National Cancer Advisory Board on March 19, 1974, in identical form, as the final report of the Committee.

R. A. Tjalma

Richard A. Tjalma, D.V.M.

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MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH

TO : The Record **DATE:** March 26, 1974

FROM : Executive Secretary, National Cancer Advisory Board, National Cancer Institute

SUBJECT: Action to create and charge an ad hoc Board subcommittee to review, and advise the Director, NCI, regarding selective implementation of recommendations specified in the Zinder Committee review of the Special Virus Cancer Program of the National Cancer Institute

During the course of the March 18-20, 1974 meeting of the National Cancer Advisory Board, it was proposed and approved that a Board subcommittee be created to review the Zinder Committee report of the NCI Special Virus Cancer Program. Such review is to be directed to evaluation of specific recommendations as set forth in the report and selective endorsement of same for referral, through the Board, to the Director, National Cancer Institute, for implementation.

Implementation of approved recommendations is to be accomplished through cooperation and consultation with the Director and staff, National Cancer Institute; the subcommittee will report to the full Board, at future meetings, the progress of measures initiated by the Director, National Cancer Institute, in response to report recommendations endorsed by the National Cancer Advisory Board for implementation.

R. A. Tjalma

Richard A. Tjalma, D.V.M.

Comments by Dr. Norton Zinder, Chairman, Committee to review the Special Virus Cancer Program of the National Cancer Institute, to the National Cancer Advisory Board, meeting of March 18-20, 1974.

Before touching on the substance of our report I've a few comments to make. When we were asked to review the V.C.P. last year I expressed the following sentiment to the Committee. I told them that I was somewhat skeptical of the National Cancer Plan for the kinds of reasons that were discussed in the Thomas Committee report. These included the enormous dangers in over-promising the Congress and the public, the seeming over-emphasis on central planning, the potential danger to the biomedical research establishment it might cause by dislocating biomedical research in general, and also the lack of the operative section of the Plan. I should say that I was privy to this report as a member of the Report Review Committee of the National Academy of Sciences. Therefore, our own report had to be parochial in that we were looking at only a segment of the program almost of the context with its totality and were reviewing one segment without knowledge of the workings and planned workings of the others, a task which of course would have been enormous and beyond our powers. I introduce my remarks in this way to indicate that we took our review seriously, for we felt that given a National Cancer Plan we might in some small way attempt to see that it was the best plan possible.

While the document which we submitted lists our more formal operations such as meetings and site visits, it does not indicate the consultation that committee members had via the telephone and in letters. As our review proceeded various members would be in touch with me as their thoughts developed.

It is from these letters and discussions in addition to our meetings that the report was synthesized. The committee stands together on the document that you have received and considers it our report.

Now to touch on the substance. We can divide it into two areas, the analysis and the recommendations. The committee unanimously felt that viral oncology was a subject worthy of high priority effort. Viruses of a number of kinds have been implicated in cancer of many animal forms and some small amounts of evidence implicates certain viruses in human cancer. Also, viruses provide a potentially clean model system for studying in depth some of the details of the oncogenic process but of course not independently of the total gestalt of cancer.

In our review of the V.C.P. and I must emphasize it was a review and not an investigation, it became clear early on, and probably is also a truism on _a priori_ grounds, that high productivity from a research program so broad in scope, is essentially impossible when control is largely in the hands of a few individuals. There is an inordinate amount of power in the Segment Chairmen's group. It is this power that is responsible, for real or imaginary reasons, for the tensions that exist among contractors in the program and accounts for the antipathy to the program in the scientific community. We assume that the intimations of this tension was what motivated this Board to initiate the review. We can assure this Board that this tension and antipathy does exist. In our survey of the Resources Program a number of comments on the management of the Program, mostly unfavorable, came in. I've forwarded to Dr. Rhoads copies of these comments.

When we interviewed the contractors who were also on the contract evaluation working groups, their comments were markedly circumspect compared to what they said privately. You have all received a transcript of this meeting. We think it speaks for itself. Let us realize that these individuals were talking to the whole committee with the comments being taped and stenotyped and a member of the V.C.P. present. Still, they provided us with a clear indication of how powerless they felt and how unsatisfied they were with the review. You can judge for yourselves. In answer to Mr. Schmidt's question posed to this committee about the quality of review, we feel that it has been extremely poor. However, because of the existence of our committee some members of the working groups have told me that they now feel in a stronger position to make suggestions and oppose decisions.

When we say that the Segment Chairmen are extremely powerful one must recall that Drs. Manaker, Huebner and Todaro, the Segment Chairmen of the three largest research segments are also in-house program managers and project officers for seven or more contracts in addition to their roles as Segment Chairmen.

With regard to the Science supported. When members of the working groups imply that they are not satisfied with the kind of work supported, this should almost suffice. Our own analysis is that about 50% of the program is supportable at some level. Those of you who were here last time may recall that Dr. Price rated all of the contracts and either in dollars or number of contracts gave about 50% a priority of 3 or better even when correcting as we all did for the fact that some of the work, screening, production, etc. must be pedestrian in nature.

There has been some comment that we did not document our statements. Indeed the report was written in general terms as we well realized that one could not provide evidence in any real sense. I again emphasize we were a review committee and not an investigating committee. We were asked to take an overview and these are our carefully considered best opinions. With regard to the letters we received, contract analyses etc.--they were not submitted as part of the report since we presumed the report to be a public document and we felt that the same kinds of discretion that one uses in handling reviews of contracts or grants or recommendations etc. should be maintained. We did forward to Dr. Rhoads in addition to the comments I mentioned before, all of the external correspondence that was received including the transcripts of the meeting with the Segment Chairmen and some of our own contract reviews. Since it has been our experience that all documents with wide circulation somehow diffuse even further, we felt that these should not be part of the body of the report as especially with the contract analyses, and comments on individuals--specific contractors--were made. These documents were also for our own internal discussions and edification and not finished reviews.

In considering our recommendations to this Board, there was some sentiment in the committee to recommend that the V.C.P. be restricted solely to Resources and Procurement and those developmental efforts for which it was possible to provide a realistic specification of the effort involved to a singular desired objective. In addition those aspects of the program which are research in the sense that they add to our fundamental science base should be removed and the monies saved thereby reallocated to the grants program. However, on reflection we did see advantages to a collaborative and integrated program on viral oncology as long as the program was open and competitive.

There seems to be some confusion in terms on the issue of grants versus contracts. We see no reason why such an integrated collaborative program must be supported solely by the ~~contracts~~ contract mechanism--and I now use the words contract mechanism in the only sense that I can understand their operational meaning--decisions being made by a few in-house people as to what and who is to be supported.

Thus we recommend to the Board an integrated program with a built in series of checks and balances to prevent the special notions of particular individuals from carrying the day. For example, should the first definitive cancer virus turn out to be a papova virus, the V.C.P would be in a strange position. It scarcely supports any work in this area and only recently has gotten seriously involved with the DNA viruses such as Herpes. In this light I will make just one remark with regard to the V.C.P. fact sheet. The V.C.P. takes credit for the distribution of EBV virus. Our Resources and Facilities survey uniformly showed that the one virus that all investigators found to be useless was E.B.V. A V.C.P. is not needed to send out seed cultures.

In any event, we would suggest the following developments for the future: First, the setting up of a steering or advisory committee with members not in the program that meets regularly with the Segment Chairmen to discuss program and help reorganize the working groups. Segment Chairmen should be that and no more. When the working groups are reorganized, all current contracts should undergo thorough review, not as renewals, but as if they were an initiation. Importantly current contractors should be notified well in advance that such a review is to occur. Essentially these contracts are to be terminated. We don't quite understand the so-called legal objection to contract termination. It is our understanding that contracts by definition run to term and until recently were for only one year periods. Clearly certain contractors have built up special expertise in these last years and should have no trouble competing. However, competition would be useful as we feel that with real review the monies available to this program could readily support several times the number of proposals that it currently does. Thus new proposals would succeed and some of the current ones would naturally fall by the wayside in part or in toto. Most importantly, new ideas should diffuse into the program as the complexity of viral oncology clearly necessitates.

Another important point is that intra-mural work should not compete with extra-mural research in the same program. Local industrial contractors should not be used as a way to do intra-mural work. If these contractors don't have the expertise to justify their support without staffing by N.C.I. scientists, then they shouldn't be contractors. We do, however, support the existence of strong intra-mural program in viral oncology but within the N.C.I. and subject to the same rules as other N.I.H. investigators.

Thus we envision a program in which there is an appropriate mix of contract and grant type work, all open to serious competition and decided upon by the collective wisdom of the working groups in coordination with the steering committee and Segment Chairmen.

Still one further point. The provision of materials and testing services ets. should be decided on the basis of scientific merit and not just program membership.

To close, let me just say, you have received our report, you have also received the V.C.P. reply. We are glad to see that they seem to be moving in part in the directions we recommend but they still seem to be refractory to opening the program. We are, of course, ready to answer your questions and other members of the committee might want to comment further.

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH

TO : Dr. Richard A. Tjalma, Assistant Director for Board and Panel Affairs, NCI

DATE: January 17, 1974

FROM : Associate Director for Viral Oncology, DCCP, NCI

SUBJECT: Report of the *ad hoc* Review Committee of the Virus Cancer Program

As requested, we are submitting comments developed by staff of the Virus Cancer Program on the draft report of the *ad hoc* Review Committee of the Virus Cancer Program. Additional material is included as background information for NCAB members attending the January 28 informal meeting:

Viral Oncology Annual Program Report, 1973
Viral Oncology Program Background Information Report
Transcript of the meeting of the ad hoc Review Committee of the VCP, held June 8, 1973 in New York.

We trust this information will be helpful for our future discussions.

Dr. J. B. Moloney

Enclosures

LRS:lq

COMMENTS ON THE REPORT OF THE AD HOC REVIEW COMMITTEE OF THE VIRUS CANCER PROGRAM DEVELOPED BY SENIOR PROGRAM STAFF

Meetings of the Review Committee:

1. March 23, 1973 - New York

   Organizational meeting. Nine of ten members present - Dr. Stetson absent.

2. May 2, 1973 - Bethesda

   All members present. First and only meeting with Chairman and Segment Chairmen of the Virus Cancer Program.

3. May 3, 1973 - Bethesda

   Dr. Rowe attended a meeting of the Program Segment Chairmen.

4. June 8, 1973* - New York

   Third meeting. Nine of ten members were present - Dr. Stetson absent. The minutes of this meeting are appended and summarized in APPENDIX A.

5. July 23, 1973 - Bethesda

   Dr. Zinder and Dr. Defendi attended a meeting of the Solid Tumor Virus Working Group, one of six working groups of the Virus Cancer Program.

   Contracts reviewed:

Microbiological Associates	$1,920,000	
Stanford University	131,962	
Salk Institute	70,750	
Harvard University	63,000	
Wistar Institute	131,653	
Weizmann Institute	70,000	(to be phased out)

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*Following this meeting Dr. Tjalma resigned because he had accepted a position at the National Cancer Institute.

6. July 24, 1973 - Bethesda

   Dr. Zinder and Dr. Defendi visited Flow Laboratories - Solid Tumor Virus Segment.

   Dr. Zinder, Dr. Defendi, Dr. Rowe visited Litton-Bionetics, Inc. - Tumor Virus Detection Segment.

7. August 29, 1973 - Los Angeles

   Dr. Zinder, Dr. Porter, Dr. Price and Dr. Shatkin attended Pacific Coast Tumor Virus Group meeting.

   August 30, 1973 - Los Angeles

   Dr. Zinder, Dr. Porter, and Dr. Shatkin visited University of Southern California.

8. October 3, 1973 - New York

   Fourth meeting to analyze survey. All members present.

RESPONSE TO THE TEXT OF THE VIRUS CANCER PROGRAM REVIEW COMMITTEE REPORT

In its analysis of the operations of the Virus Cancer Program, the Committee concluded that research in Viral Oncology deserved continuing support. The basic issue was whether the contract is the best mechanism for providing such support. The FY 1973 expenditure by the National Cancer Institute of 42 million dollars funding 131 contracts was contrasted with 7 million dollars in National Cancer Institute support of about 100 grants. Actually, of the 119.5 million dollars in FY 1972 NIH extramural grants, 58 million dollars supported 1090 grants covering different areas of cancer-related research. The 131 contracts within the Virus Cancer Program support approximately 600 professionals and 230 pre- and post-doctoral trainees which, when combined with technical support, total 2,290 individuals whose combined activities resulted in 1,183 publications in FY 1972. Therefore, we question whether the overall opportunities for the development of fundamental research observations in science are as limited by the additional support provided to the scientific community by the Virus Cancer Program as the Committee implies.

The Committee recognized the contributions of the Virus Cancer Program in screening, production of research reagents, and coordination and information flow between investigators which are not features of the grant mechanism. What is not recognized is the tremendous amount of basic research supported by the Virus Cancer Program that make these high-quality reagents available to investigators. However, the Committee believes that a serious and destructive aspect of the Virus Cancer Program is its assumption that knowledge of the virology and natural history of tumor virus was sufficient to achieve control of virus-induced cancer and that most basic information was on hand to achieve a definitive result in a relatively short period. The fact is that the Virus Cancer Program has never considered the virus-cancer problem to be one which would be readily resolved, and the breadth of its overall activities across different research specialties shows cognizance of the need for such contributions converging on the major objectives.

The Virus Cancer Program is and must continue to be an "in addition to" rather than an "instead of" program. The basic philosophy underlying the Program was to make possible the expeditious development of significant observations generated within the scientific community to the benefit of the public and not to compromise the basic research contributing to an understanding of neoplastic transformation resulting from the imagination and work of the best scientists under the extramural grants program or other sources of support.

The Virus Cancer Program is obliged to use the contract mechanism to fund its collaborative program. This has required yearly review for renewal of projects which are regularly monitored through progress reports submitted tri-annually, and more recently semi-annually, by the contractor for perusal by in-house and Working Group members. Reviewers are, therefore, well aware of essential details of the progress made under the project in contrast to the position of Study Section members who are primarily concerned with the evaluation of new efforts. This does alter the nature of the review. Program has emphasized the acquisition of and association of the best scientists available for research who will contribute to program objectives rather than development of research for its own sake. Each contract receives review by two to three review groups followed by approval by the Institute Director, his designates, and higher authority as required. Under this system, the power of individual Segment Chairmen is minimal.

The Virus Cancer Program is primarily an in-house operation in the sense that it is the administrative focus for a collaborative program of research. Any contract support for in-house investigations receives the same reviews accorded any contract project and the in-house investigator maintains liaison through the contractor's principal investigator.

The Committee contends that the Segment Chairmen come from a narrow section of the scientific community and that Working Group members are chosen to reflect a similarly narrow range of expertise. Moreover, it was stated that Segment Chairmen were not originally selected on their ability to run large contract programs. The Segment Chairmen (appointed by the Director, National Cancer Institute) are chosen both for their ability to manage complex research programs and for their scientific knowledge in viral oncology. The Working Groups are composed of individuals drawn from a wide variety of scientific disciplines to obtain as much input as possible from a membership also cognizant of virological aspects of oncogenesis. The range of expertise so provided is not narrow, but it is attuned to virological matters since the activities of the Virus Cancer Program are restricted to problems of virus relationships to cancer.

We recognize that for some Segments names no longer reflect their programmatic theme. The Chairman of the Virus Cancer Program is considering rectification of this situation. Any specific suggestions for restructuring would be welcome.

Contract projects are not assigned to a Segment on the basis of a particular personal relationship between a Principal Investigator and a Segment Chairman. Investigators in the field might tend to favor a particular Segment because the research activities which it administrates are similar to their own. However, it must be emphasized that 14 reviewers vote independently to establish the relevance, priority and need for new proposals and renewals of on-going projects, each of which is rated by secret ballot. This policy obviates personal bias of any individual member directed for or against a project or its Principal Investigator. Furthermore, the proceedings of subsequent Working Group technical reviews are recorded for each project and are subjected to detailed scrutiny by officials authorized to initiate contract proceedings.

The Committee Report states that reviews for scientific excellence performed by Working Groups are perfunctory. We wish to stress that at present these Working Groups are composed of a plurality of non-government scientists who have the power to recommend initiation or rejection of new projects, changes of the workscope of existing contracts, increase or decrease of funding levels, and termination of contracts. In addition, the members are encouraged to suggest new areas for profitable investigation. The Virus Cancer Program has looked to Working Groups to perform these functions. The problems which the Committee has associated with present review practice will be eliminated by two actions of the Chairman, Virus Cancer Program. These include: (1) the chartering of an advisory committee composed of non-program scientists to provide broad directions on allocation of resources, areas for expansion of research and development of new leads and opportunities, and the application of research findings to the control of cancer in man; (2) the chartering of a Virus Cancer Program Scientific Review Committee to review individual proposals for scientific excellence and technical competence. The group will consist of 60 members, both government and non-government scientists, selected on the basis of their outstanding individual qualifications and recognized expertise in the fields of microbiology, molecular biology, immunology, biochemistry, and virology as they relate to cancer. A quorum of eight members, more than one-half of whom are outside NIH must be present at each meeting to review proposals. No member will be present during the portion of a meeting where a proposal from his own institution is being considered.

RESPONSE TO THE RECOMMENDATIONS OF THE VIRUS CANCER PROGRAM REVIEW COMMITTEE REPORT

In essence, the recommendations of the Committee call for the establishment of a new approach by Government to fund the scientist at large. At present, the services and products necessary to accomplish the objectives of DHEW programs are obtained from in-house resources, through other Government agencies, under a grant, or by contract. The Virus Cancer Program was initiated by the Government under a mandate to the National Cancer Institute by the Congress to determine whether viruses were etiologically involved in human cancer and to develop some means for prevention or control of such cancers. Since the grant is an agreement by the Government to support the exploration of health-related research of the investigator's own choice, whereas the contract is the instrument whereby research and materiel specified by the Government is procured, the Virus Cancer Program has authority to pursue its objectives only by contracting with non-government institutions, not with individual scientists. The recommendations by the Committee overlook the legal obligations of Government and contractor as parties in a contract and center on an approach to an integrated program of research directed by non-governmental scientists at large. Either a new device to support investigators is required or one may seriously question whether the grants program does not in large part already fulfill this need.

The contention of the Committee that the growth and management of the Virus Cancer Program from inside Government was a mistake neglects the fact that specific regulations govern contract procurement. In such operations, advisory groups and Government employees make recommendations regarding the Government's needs for specific research and the capability of an institution to fulfill those needs. However, it is the Institute Director, his designates, or higher authority, if required, that approves the initiation of contract proceedings, and the Contracting Officer who negotiates and awards the contract. Since contract procurement is initiated to provide material return to the Government, the Project Officer monitors technical performance by the Contractor, protects the Government's interests, and insures good relationships and fairness to the contractor. This is accomplished by visits to the contracting organization by the Project Officer and consultants to the Government, by regular reports made by the contractor, and by regular formal reviews by consultants on review groups. Thus, the opinions of specialists within and outside the Government contribute to decisions regarding each contract for research.

Operationally, the Virus Cancer Program always has been open to research proposals and the recommendations of non-government scientists actively engaged in virus-cancer research. Such recommendations not only impact at working levels and on the direction taken by Program, but directly influence decisions which are ultimately made by authorized Government personnel. The limitations on funds, manpower, and materiel obviously introduce constraints and require judgments by individuals responsible for administration of the Program with respect to the overall research effort.

Those features that the Committee suggest should be conserved are the backbone of any integrated activity. These include meetings by investigators involved in Program research, centralized resources for research needs, and service or developmental contracts. However, the contract instrument is not limited to activities of routine development but includes individual research, development or demonstration projects that frequently lie beyond the state of the art and entail procedures of great complexity and difficulty. Under these circumstances a contractor, no matter how carefully selected, may be unable to deliver the desired result. Moreover, the job of evaluating progress may be difficult. In such circumstances, the advice of experienced consultants on review bodies and of site visitors is necessary and is routinely requested by Program.

Virus Cancer Program administration has been developing plans for an advisory group of consultants to provide input as to the direction to be taken by Program, development and establishment of priorities for research project plans, and selection of sole source projects. These plans coincide in large part with similar recommendations made by the Committee, particularly with outside membership on this group, except that Government reserves the right to direct the assignment of its own personnel and requires adherence to regulations governing such group activity.

The purpose of an Office of Resources and Logistics within the Office of the Associate Director for Viral Oncology is to obtain those reagents routinely used in quantity within Viral Oncology and its collaborative Program at minimum expense to the Government. Therefore, first priority is given to requirements for projects funded through Viral Oncology to maximize progress. Reagents have been provided, to the degree possible, to scientists not within the Virus Cancer Program. It is not within the purview of the Office of Program Resources and Logistics to establish priorities for distribution of reagents to scientists at large nor to undertake general distribution of available reagents. The Committee Report carries the suggestion that the Virus Cancer Program be obligated to underwrite costs of materiel for non-Program research and to establish a review mechanism for distribution of reagents to the scientific public. This is clearly not feasible within the limits of available funds and staff positions.

The Report recommends restructure of the Working Groups into a facsimile of the study sections. At present a restructuring of these Groups is underway to meet OMB directives. Present membership includes non-government scientists from this country and abroad, and the composition of the review bodies recommended by the Committee does not conflict with the views of Program Administration.

CONCLUSIONS: The flavor of the Committee Report calls for better input regarding desirable research by contributions from a group of specialists who would provide new concepts, fresh vision, and a suitable climate within the Program to attract greater and more diverse scientific capability to virus cancer research in order that the opportunities for achievement by the Program be maximized. The general substance of the Report also indicates that elements of bias which may pervade the processes of project selection be eliminated by a reorganization of project review groups. A better delineation of the responsibilities of Segments of the overall Program was recommended. The importance of resources and adequate quality control was emphasized. Unfortunately, suggested improvement was based on total destruction and restructure of Program and not on constructive modifications which could be readily implemented. We feel that the Associate Director for Viral Oncology, working with an advisory group of consultants, could accommodate the constructive features of the report and retain the positive aspects of the Program without the necessity for an intervening dissolution which would seriously affect ongoing research and impede the acquisition of data necessary to attain Program goals.

SPECIFIC RESPONSES TO RECOMMENDATIONS
BY THE VIRUS CANCER PROGRAM REVIEW COMMITTEE

General

1. General Introduction: The recommendations of the Virus Cancer Program Review Committee suggest that the scientific community should be responsible for and totally direct the obligation of government contract funds. We call your attention to the fact that the legal aspects of such action require investigation.

2. Recommendations 1, 2, 3: The committee recognizes that the Program is already carrying out these recommendations. We intend to continue operating in this collaborative spirit.

Intramural Program

1. Steering Committee: The Chairman, Virus Cancer Program, has already taken steps to charter a committee composed of outside scientists to advise on the direction taken by the Program.

2. Program Resources and Logistics: The Office of Program Resources and Logistics will seek expert advice on reagent production and quality control.

3. In-House Operations: This is an Institute problem now being rectified.

Extramural Program

1. Chairmanship of Working Groups: The major issue in recommendation 4 is the suggestion that the National Cancer Institute recruit five or more Segment Chairmen from the outside scientific community as salaried employees to replace present Chairmen. The Committee should recognize that the Chairman's position requires full-time effort and attention to many details other

than chairing Working Group sessions. Little would be achieved by making a non-government scientist into a government science manager.

2. Composition and Responsibilities of the Working Group: The features presented in recommendations 5, 6, 7 and 8 are in practice. Members of Working Groups are approved by the Director, National Cancer Institute.

3. Termination of Current Projects and Readvertising: While we recognize that recommendations 9 and 10 are intended to provide opportunity for greater numbers of scientists to participate in the Virus Cancer Program, we question the necessity for complete dissolution of all on-going research. This would have a stultifying effect on progress. We are applying a selective process to maintain the best research bearing on the virus-cancer problem. See Tables 1a, 1b, 2a and 2b in APPENDIX B.

4. Technical Merit Review Process: The suggestions made in recommendation 11 are already in practice.

5. Presentation to Reviewers of Progress by Principal Investigators: Working Groups have requested the opportunity to confront the Principal Investigator to better evaluate progress and techniques and to provide suggestions when necessary. If this policy is to be discontinued, it should be upon recommendation by the Working Groups.

6. Finally, we agree with the Committee that format should not stand in the way of progress.

APPENDIX A

REVIEW OF COMMENTS ON VCP*

Member	Segment	Generally Favorable	Generally Unfavorable
Dales	DR	X	
Krim	DR	X	
Gallo	DR	X	
Hurwitz	STV		X
Bloom	I-E		X
Black	TVD	X	
August	TVD	X	
Gilden	BCV	X	

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*At meeting of June 8, 1973, New York, ad hoc Review Committee members interviewed 8 of 49 outside members of working groups in the VCP.

APPENDIX B

Table 1a

PROPOSALS SOLICITED* AND FUNDED

Period	Number
July 1972 - June 1973	3
July 1973 - January 1974	5
January 1974 - July 1975	11**

* By advertisement
** Projected

Table 1b

PROPOSALS UNSOLICITED AND FUNDED

	Number	
Period	Received	Funded or to be Funded
July 1971 - January 1974	149	22

Table 2a

VCP CONTRACTS

Major Modifications for FY 72 and 73

Action	No. of Contracts	Reason
Termination	36	Low Priority
Reduction in Funding	14	"
New Contract	44	High Priority
Increase in Funding	21	"

Table 2b

VCP CONTRACTS*

Action	Number
Initiation (New)	71
Termination	33

*Covers period July 1970 through January 1974
(FY 71, 72, 73 and first half of 74)

BOARD MEETING

March 19, 1974

Zinder: Since the meeting of January 1974, it was not possible to have a meeting of the full committee. However, its members stand on the previous document. Is more comment desired?

Rhodes: It would be useful to put this into focus again for the Board. Some members thought a new version would be forthcoming.

Zinder: I can make a few comments. When asked to review the VCP, I was skeptical of the National Cancer Plan, having had an opportunity to read the Thomas report. There are dangers in promises to the public and Congress. Overplanning creates the danger of dislocations in the biomedical community. The reviewers of the VCP were looking at only one segment of the Program without knowledge of other segments in the Program.

The document submitted lists the more formal meetings but not the telephone calls and letters which prompted synthesis of the report. The committee stands on the existing document. The document is divided into two areas, analysis and recommendations.

Viral cancer research is of high priority. It is also a model for study of the oncogenic process. In the review of the VCP, it became clear that high productivity in research of broad scope was not possible under the control of a small group of individuals. The result has been tension and antipathy in the scientific community. I assure the Board that it does exist.

On resources, I got unfavorable reports in private. In discussions with members of Working Groups, we got the feeling of dissatisfaction with the review process. Since the meeting, some members of Working Groups are more at ease. Huebner, Todaro, and Manaker are in-house managers and are also Project Officers on contracts. The Segment Chairmen are very powerful--. Dr. Price rated 50 percent of contracts at 3 or better.

The Committee report is in general terms with no evidence in the real sense. This was a review, not an investigating, committee. The letters received are not included in the report, which is a public document. The external correspondence was forwarded to Dr. Rhodes. Names are only for internal review.

There was some sentiment in the committee to restrict the VCP to services, removing fundamental research efforts to grants. On reflection the advantage of a viral oncology program was seen, if it were on a competitive basis. There is no reason for VCP support only by contract. Decisions on support are made by a small group in-house. Suppose a papovavirus were found to be the first human cancer virus. The VCP is not supporting papovavirus research. The EB virus produced was found useless by investigators supplied.

The Committee recommends: (1) Establishment of a "Steering Committee" to reorganize the VCP and advise. (2) Review of all contracts as a [illegible] [illegible]. All contractors should be so notified. If the contractor has the expertise, [illegible] should be no trouble in recompeting. The VCP should [illegible] times the [illegible] [illegible] into the [illegible] [illegible] work. The Committee [illegible] within [illegible] overseen by the "Steering [illegible] given [illegible] VCP.

Dr. Darnell [illegible] a statement.

Rhodes: Thank [illegible]

Darnell: [illegible]

[illegible]

Rhodes: Are there questions? I would like to make some understandings (of what has been presented): (a) Money, which might have been saved, was expended too soon or too fast because of lack of understanding (of the complexity of the problem), or (b) There were opportunities to spend the money in the grants program. (c) There exists a lack of understanding to direct a targeted Program.

Zinder: We need a broader base of understanding in viral oncology - a less directed way of spending to get basic input.

Rhodes: Have we lost time?

Zinder: We can't ever be sure. In science, one doesn't know when one will get an answer. Some promising scientists are not being funded today. Had they been, one doesn't know if anything would have come out.

Schmidt: I want to get straight what Dr. Zinder recommends: (a) Would continue the VCP; (b) Wouldn't spend as much money as is spent today; (c) Would bring in outsiders as advisors from Study Section and ACS panel; (d) Contractors would supply support; (e) Bulk of the research would be by grants with maybe some contract research; (f) In contracts and grants, peer review by the same scientific cadre that would overlook the Program as a whole.

Zinder: As far as research goes, there is little difference between contract and grant. This hasn't a thing to do with what should be funded. The specified target of a contract does not fit a basic endeavor.

Schmidt: Those giving and receiving contracts say that they are not constrained. You say that at the current state of knowledge, this can't be specified.

Rhodes: I wish to call on Dr. Rauscher to comment on changes that have been initiated.

Rauscher: I wish to thank Dr. Zinder and the members of the Committee.

To put the situation into perspective, the VCP began in 1965 to have a hard-hitting program and to encourage young people to enter cancer research. Congress gave a highly visible amount of money to encourage bright people to come in. Contracts were selected as the funding mechanism because, at the time, grants had money, and contracts speeded up the funding process to 3 to 3 1/2 months whereas grant support required 6 or more months.

There was deliberate policy to get the best people to serve on review committees. Now that the field has become popular and money large, steps must be taken to separate management from review. We are going more into the program grant mechanism. There are best effort contracts with academic institutions. These could be converted to Program Grants with information made available to Program managers.

The policy in 1965 was to encourage investigators to enter the field. If basic or fundamental research was required to get from point A to point B, this would be done by a contract. It was thought to be unwise to use grants because these were investigator-initiated. Now - if we have a definable informational void, the program grant mechanism could be used. Also, funds for project grants are being increased. I will close by saying that things discussed yesterday at the Board meeting and Dr. Zinder's idea of changing the review mechanism - in general, the separation of management from review - will go a long way in satisfying Dr. Zinder's concerns. Present operations are inherited from the original deliberate organization at the beginning of the VCP.

Shubik: Had I heard the reports by Dr. Zinder and Dr. Darnell given today, I would hot have been as irritated as I was when I read the report. Today's comments are to the point and I would like to see them incorporated in the report. Today's comments are somewhat at variance with the substance of the report.

Rhodes: I would like a copy of the remarks to add to the report. After talking to Dr. Rauscher and others, I wish to take two steps: (1) To receive the report with thanks. (2) Appoint a sub-committee of the Board to follow its implementation and report to the Board to follow its implementation and report to the Board how rapidly this is being accomplished. Dr. Amos is designated as Chairman with Drs. Seitz, London, and Skipper as members. I would like the reaction of the Board to this proposal. I want to be sure this report doesn't fall between the cracks.

The material sent me by Dr. Zinder was not circulated because it is too personal. This will be given to the four people on the sub-committee. It bears out the stand of the Zinder Committee. I personally had the impression that the criticisms were by people I respect.

Charge to the sub-committee: Follow the implementation of the recommendations in the report by exchanges with Dr. Rauscher and his designates as to how NCI is taking advantage of the recommendations. I ask the sub-committee to report to the Board at every or every other meeting on this implementation, and if it can't be implemented, what considerations apply.

J. Watson: I wish to make some comments. I don't think the program is getting enough money. It would be a tragedy if the amount of money were decreased. Maybe (NCI) had been overly optimistic. But this program represents the best method for getting at the etiology of cancer.

In the Virology Study Section, the amount of money was too small. The VCP could think bigger with more money for a more limited approach. This created bad feelings by the failure of the VCP to recognize the breadth of the field and putting too much into the RNA viruses.

Concerning grants and contracts, I can't help but be disallusioned regarding the results of Study Sections. In VCP, outsider's input had not been recognized. I believe more money should be requested and used fast. There is no long term hatred that would last five minutes. People just haven't gotten together.

The report is intelligent; perhaps one-sided. The main thing is that how viruses cause cancer is a complex problem. Virology Study Sections think small. I think a lot more money should be gotten into it, and the power should be diffused to get away from individual decisions.

Rhodes: I wish to quote: "Consistency is something with which great minds have nothing to to".

Amos: The sub-committee will phase its activity over the next year. Accomplishment cannot be done at one blow. Progress reports will be brought to the Board in an organized manner over time.

Owen to Amos: Give attention to the values in the ongoing VCP. It has been criticized, but it includes very able men with dedication to Program. It would be unfortunate if action were taken to disrupt this. I think many of us are concerned over stresses with which intramural workers have had to cope. I agree with Dr. Zinder on the support of a strong intramural program. A great many of us would have regret were severe damage done to a Program which has been a source of pride.

Amos: Dr. Zinder has given us a refreshing approach to new direction without saying that what has been done is bad.

Schmidt: It is fortunate that the Zinder Committee gave as much constructive input as it did.

Amos: The sub-committee is charged to bring the Board information as to what is being done.

Schmidt: Zinder said to get good peer review, separate outside program management from internal management. The Board has said it shares that view. Dr. Rauscher is to implement this. The Amos Committee is to consult with Dr. Rauscher to see how implementation is done or that it is deficient.

Amos: Since we have different views of the function of the sub-committee, I hope we reach the same objective.

Seitz: All of us in the physical sciences can see how much was lost by too much concentration in a specific direction. We may get to a point where basic research people will say we can set our sights.

Senator KENNEDY. We will next hear from a panel of witnesses, consisting of the distinguished members of the President's Cancer Panel, Mr. Benno Schmidt, chairman of the panel and chairman of the board of Memorial Hospital, vice chairman of the Memorial Sloan Kettering Cancer Center, both in New York City, accompanied by Dr. Ray D. Owens, Department of Biology, California Institute of Technology. Dr. Owens is technical advisor to the United Nations Scientific Committee on the Effects of Atomic Radiation; and Dr. R. Lee Clark, University of Texas System Cancer Center, Texas Medical Center, who is director at large of the board of directors of the American Cancer Society, and president of the Scientific Committee.

STATEMENT OF BENNO SCHMIDT, CHAIRMAN, PRESIDENT'S CANCER PANEL; ACCOMPANIED BY DR. RAY D. OWENS, DEPARTMENT OF BIOLOGY, CALIFORNIA INSTITUTE OF TECHNOLOGY, PASADENA, CALIF., AND DR. R. LEE CLARK, UNIVERSITY OF TEXAS SYSTEM CANCER CENTER, TEXAS MEDICAL CENTER

Mr. SCHMIDT. Thank you, Mr. Chairman. We are pleased to be here.

Senator KENNEDY. Gentlemen, we have benefited many times from your testimony and we are anxious to take advantage of your scientific and technical know-how.

Mr. SCHMIDT. Mr. Chairman and members of the subcommittee, I am going to keep my opening remarks very brief so that we can get to the question of the members of your committee.

I would like to say it is a pleasure for me and my colleagues on the President's Cancer Panel, Dr. Lee Clark and Dr. Ray Owen, to appear before your committee on the second anniversary of the passage of the National Cancer Act. The past 2 years have been very eventful years in the evolution of the cancer program, and there is no question that great progress has been made in that period.

As recently as 1970, cancer research was relatively on the back burner so far as our national priorities were concerned. In 1970, the Federal Government spent $180 million on its cancer research program. In 1971, while the Cancer Act was under discussion in the Congress, these expenditures were increased to $232 million.

In 1972, the first year after the passage of the Act, the National Cancer Institute was provided $378 million. In 1973, the amount was $432 million, and in the current fiscal year of 1974, expenditures will be $589 million. This latter figure includes $59 million which has been released from funds previously impounded.

During this period of very rapid growth in the Federal cancer program, it is my belief that a good balance has been maintained between grant-supported activities and contract-supported activities, between research aimed primarily at extending our fundamental knowledge of cancer and that aimed primarily at improving the technology of clinical care, and between extramural activities conducted in research institutions throughout the country and intramural activities conducted by the NCI itself.

I think these balances are reflected in the 1974 figures.

Of the 1974 budget of $589 million, $218 million will be spent on research grants; $95 million will be spent on research contracts; $81 million on supply and support contracts; fellowships and training grants will amount to $20 million; cancer control will receive $34 million; $51 million will be spent on construction; NCI intramural research will amount to $45 million; $18 million represents the NCI portion of the cost of the NIH clinical facilities, animal facilities, and the NIH management fund; the remaining $27 million is the cost of administering the program.

Intramural research at the National Cancer Institute has grown much more slowly than the rate of growth for the program as a whole, but this is in accordance with the policies of the director supported by the board and the panel.

In my opinion, there is absolutely no question that there is more and better cancer research going on today than has ever been the case in the past. Progress in some areas of basic science has been more rapid than was thought possible even 2 years ago.

Furthermore, as a result of the progress that has been made in the centers program, in the control program, in the task force programs, in the cooperative clinical groups, and in certain of the educational programs, we are seeing better patient care throughout the country for cancer patients today than ever before existed. As these programs realize their full impact, the benefits of this acceleration will be increasingly clear. We are beginning to achieve greater uniformity in the delivery of optimum care for such cancers as leukemia and certain other childhood cancers, for Hodgkin's disease, and for other rapidly growing lymphomas.

All of these cancers appear to be susceptible to restoration in the patient of a full life expectancy in a high percentage of the cases where early diagnosis is accompanied by aggressive treatment. Programs are also underway to improve both early detection and treatment in breast cancer, cervical cancer, lung cancer, and colon cancer, and other types of cancer are under intensive study by organ site task forces to achieve a formulation of the best technology available to us today as well as to conduct the best possible research on new insights.

Of course, not all aspects of the program have gone as we would like.

One of my disappointments as chairman of the panel was the discontinuance of the training grant and fellowship program. Although OMB was under very real and justified pressure to reduce the budget in a period of serious inflation, the decision to reduce it by cutting the training grant and fellowship program was, in my opinion, a serious mistake.

It is absolutely essential to our success that we bring our brightest young people into this program, and fellowships and training grants have proved to be the most effective and most economical way of doing that.

These are among the best dollars that we spend in terms of value received. The panel has done its best to present the arguments for this program, and we are disappointed by our inability thus far to get this program fully reinstated.

However, we are continuously pressing on this front. I am pleased that a $30 million fellowship program for NIH was announced earlier this fiscal year, and this program is scheduled to go to $60 million in 1975, and $90 million in 1976. This has enabled the NCI to restore its 1974 fellowship and training expenditures to $19,948,000 which is only $500,000 below our expenditures on these programs in our peak year of 1972.

Unfortunately, the restoration is not nearly so complete in such Institutes as General Medical Sciences, Allergy and Infectious Diseases, and others where the largest part of the training and fellowship program was funded. The training of these scientists is of utmost importance to all biomedical research, cancer as well as other areas.

In my judgment, when we look at the cost of medical care in this country today, we cannot afford to economize on the effort to produce the people who will make the discoveries that will facilitate prevention or simplify cure.

We have also been deeply concerned about the cuts which have occurred in the research budgets of General Medical Sciences, Allergy and Infectious Diseases, Arthritis and Metabolic Diseases, and the other Institutes. Neither the cancer program nor biomedical research in general can thrive if these Institutions are not healthy.

At the time we were urging on the Congress and the administration a greater effort in cancer, we were very explicit in the position that the increased cancer effort should not be at the expense of other biomedical research.

I am not sure that the cancer effort has been the cause of these other Institutes receiving less, but it is difficult to prove the contrary when the cuts have in fact taken place.

Also, regardless of what would have been the case in other circumstances, the fact is that this country cannot afford to reduce the research efforts of these other Institutes at this time.

Therefore, we have urged the Office of Management and Budget to give the highest priority to budget increases for these Institutes. I am hopeful that the budget for 1975 will include increased appropriations for these Institutes.

On the whole, the members of the panel and the members of the National Cancer Advisory Board, those who have been closest to the cancer program, feel that the program is progressing in a wholly proper and healthy fashion.

We feel that the director and his staff have done an outstanding job in administering the program during a period of intense growth while operating under highly restrictive personnel limitations. Enormous progress has been made, and great progress can be expected in the future.

However, cancer is an extremely complex and difficult group of diseases, and it is highly unlikely that we will have any single miracle of discovery that will provide an answer to all the cancer problems.

Also, cancer is long-range by its nature, and it takes substantial periods of time for the effect of carcinogens and other causative factors to manifest themselves and for the efficacy of treatment procedures to be determined.

Therefore, we must be patient and persevering and we must view this as a long term commitment by the administration, the Congress, and the American people. This is not to say that we will not make enormous progress as we go. I am convinced that we will. But I am also convinced that we will be working on some aspects of this problem for many years to come.

I would also like to emphasize that biomedical research has reached the stage today that there are no longer sharp dividing lines between the various diseases and research disciplines. Just as there will be important fallout to cancer from basic biomedical research aimed at other diseases, there will also be important fallout for other disease areas from the cancer research. This is already beginning to manifest itself in very important ways.

So far as the Cancer Act is concerned, it is my opinion that the compromises reached in the initial legislation have served us well, and that the present act provides a sound legislative foundation on which to build the best cancer program of which American science and American medicine is capable.

Whatever mistakes have been made have not, in my opinion, been the fault of the legislation. I see no reason why this legislation cannot serve us well in the future. I believe that the comparatively minor amendments that are embodied in the bill now pending before this committee are desirable amendments, and we of the panel recommend the continuation of the present legislation with these small amendments.

My colleagues and I will be happy to attempt to answer any questions you may have about either the proposed legislation or the program as it has thus far developed under the Cancer Act of 1971.

Thank you.

Senator KENNEDY. Well, thank you very much, Mr. Schmidt.

The members of this committee, and the co-sponsors and supporters of this legislation are very much in debt to the Panel for the suggestions you have made.

I cannot think of any Advisory Panel that has been more conscientious in fulfilling its responsibilities to achieve the goals of the 1971 legislation.

I think the recommendations that you have made and the amendments which have been proposed, and which we welcome, were made on the basis of some long hard thinking. Hopefully they can be translated legislatively into the kinds of improvements you desire.

One of your most interesting comments concerns the fact that along with the progress that has been made in direct cancer research, there has been a spinoff effect of great value to the other Institutes. In other words we have seen in this program, the broadest kind of communication and willingness to work with the other Institutes.

Mr. SCHMIDT. Oh, yes, there is no problem of communication on these kinds of things and even if the communication channels were not wide open within the National Institutes of Health they are wide open within the scientific community so that these things get moved about just as fast as the confidence in the discovery reaches the point that the scientist is willing to reveal it.

I can give you two examples without being able to be too specific about them.

In one of the Cancer Research Institutes where we are funding cancer research, there are very important discoveries today which appear to have more immediate significance and perhaps more immediate application to diabetes than they will have to cancer.

In the long run they will have some very important cancer implications, too; that is, if they are borne out. But they may have some very immediate implications so far as diabetes is concerned.

There are other discoveries that appear to have substantial importance so far as the understanding of multiple sclerosis is concerned.

These are simply examples of work that has immediate application and all work now in cell biology and molecular biology and cell surface phenomena, understanding of the immune system, immunology, and these fundamental research areas now pretty much transcend the boundaries so that the fundamental research in cancer is important in the overall picture just as the fundamental research in other areas is important to cancer.

Senator KENNEDY. Your statement supports broader financial support for the other Institutes of Health as well.

Mr. SCHMIDT. Not only in my statement, Mr. Chairman, but a good bit of the time that I have spent with the Office of Management and Budget, and on my most recent appearance there I spent some time in emphasizing the necessity for stronger support for the other Institutes if the cancer program is to continue to be healthy and equally important and a part of the same thing if our biomedical community as a whole is to continue to be healthy.

I am very hopeful that that will bear fruit and the recommendations that you will see in the next few days.

Senator KENNEDY. You have been a strong supporter for full funding of this program, but I know from both your public and private statements that you are a firm believer in insisting that the other Institutes of Health are funded to the extent that they can meet their responsibilities. You deplore any suggestion that progress in cancer should be made at the expense of the other Institutes.

Mr. SCHMIDT. Well, I have taken that position publicly from the beginning, but I have not heretofore regarded it as my area of responsibility.

I did feel in the recent appearance that it was so apparent that certain of the Institutes were not receiving what I considered to be funding commensurate with their capabilities and the needs of their program and the needs of other health programs from the developments within those Institutes, that I did, even though I am Chairman of the Cancer Panel, I did take on the job along with others of trying to intercede with OMB as strongly as possible on behalf of those other Institutes.

Senator KENNEDY. I suspect the committee will hear more on this issue. And we will include that in the hearing record.

Let me just ask you a few more questions, Mr. Schmidt.

The Secretary questioned the wisdom and viability of expanding the number of Centers. Could you state the position of the Panel on the matter?

Mr. SCHMIDT. Yes. I think there was perhaps some misunderstanding in the discussion this morning.

When we back a Center we do not build a Center out of the whole cloth with Federal funds and commit the Federal Government to the future support of that Center either in its research activities or in its medical care.

What we have done in the National Cancer Institute is to pick those spots where, as a result of local initiative, sometimes State and voluntary, sometimes voluntary only and in a few cases State only, but where local initiative has brought about a situation where there is excellence in both clinical care of cancer patients and basic cancer research. The NCI makes grants to those institutions principally in support of their research and usually with the same review for excellence as the review of other grants. I say "usually" because in some cases, the review is still a very capable and full review but is not accomplished in the same study system, but usually the basic research grants to Centers go through the same study section procedures.

Now, the National Cancer Institute could not limit the number of comprehensive cancer centers if it wanted to.

The private resources and State resources are available for that purpose and what we do at the National Cancer Institute is simply recognize certain institutions which have reached such a standard of excellence in both patient care and basic research in the field of cancer such as to be called in our opinion a comprehensive cancer center. We have no ongoing commitment to those institutions for their continued support at any given level any more than we have an ongoing commitment to a science professor at the Harvard Medical School who is doing research under a research grant.

I do feel that we have to be prudent in the amount of encouragement and the financial level of encouragement we give and the number of places we give that to, just as we have to be prudent in the amount of grant-supported research, because we must think in terms of future budgets and the ability to help support these institutions in the future.

We thought it would be best if the act simply authorized the Director now—the original act set up a target for the creation of 15 Centers, and that was a recommendation of the Congress and it was understandable because the Congress wanted to give the Institute a target to shoot for. Now that target is well underway toward having been achieved.

We will now simply recognize when and where the degree of excellence has been reached in clinical care and basic research to justify that recognition and support those Centers in their research grant applications to the extent those grant applications fare well in the study section or see review competition with the other grant applications.

I think it would be a mistake to say we want to achieve 30 Centers or 35 Centers in the act. Conversely, I think it would be a mistake to say we can have no more than 15 Centers or 18 Centers.

We would like to see as many places as possible where cancer patients can get the best care of which American medicine is capable and where the best quality, the highest order of excellence in cancer research and biomdedical research is being performed and that is all a Center means.

It would be fine for the country and fine for all of us interested in this and other diseases if the numbers should grow, but there are limits within which we can spend money to make them grow.

Now, the Secretary mentioned construction. We have never in any year spent more than $57 million, as I recall, on construction and the allocation to construction in this present budget which is the largest budget we have ever had, the allocation to construct in a $589 million budget which is fiscal 1974, is $50 million. So we are not letting the support of bricks and mortar get out of hand.

What we are doing is giving some construction support to people who have substantial facilities already in existence and where a small construction expenditure will provide vast returns in basic research in cancer or clinical care or a combination of the two.

Senator **Kennedy**. And the provisions in this legislation provide the degree of flexibility that the panel sees as appropriate and necessary?

Mr. **Schmidt**. I think that is right and I am just speaking to the point of any limitation which I think would be a mistake or a target requirement.

Senator **Kennedy**. And you do not consider the creation and support of these types of centers as essentially a Federal takeover of the cancer program?

Mr. **Schmidt**. No, obviously it is not.

Dr. Clark directs one of the largest centers in the world and as he will tell you we do not pay through the National Cancer Institute for the cost of the patient care at his Center at all.

We support the basic research efforts and the clinical research efforts where that support passes muster so far as seen review against the competition is concerned.

All the Center means is that somebody has achieved a degree of competence and excellence in patient care and basic research all combined in one spot which entitles them to that recognition and whether that is the University of Wisconsin, M.D. Anderson, or Children's Cancer Research Foundation in Boston, their applications have got to be as good as the ones at Harvard or the University of California or the University of Southern California to get funded.

Senator **Kennedy**. Senator Schweiker has a question on this point and then I will have one other.

Senator **Schweiker**. Thank you, Mr. Chairman.

I gather in hearing your answer that there is apparently some difference in concept or definition.

Here is the Secretary's statement of this morning in which he says, "the National Cancer Institute estimates that 18 Centers will provide outpatient care within a 60-mile range to approximately 45 percent of the U.S. population."

He says, "inpatient care within a 120-mile range can be provided to over 80 percent of the population. With this amount of population covered, these Centers can effectively carry out an essential mission of demonstrating the best methods of cancer treatment."

He goes on to say, "to support any more of these Centers would move the Federal Government dangerously close to a complete cancer base treatment responsibility."

Reading that and hearing your answer I gather what you are saying is there are two different kinds of centers.

Mr. SCHMIDT. My difference with that statement starts with the words "to support," because let us take an example. Suppose the University of Chicago had a hospital with clinical facilities dedicated completely to cancer care and had a research organization in basic research that compared in excellence with one anywhere in the world dedicated to cancer care and they chose to pull all that together and meet the attributes which the National Cancer Advisory Board had laid down for a comprehensive Center.

Now, if they come in for a grant application say for $5 million or for $2 million or for $500,000, that grant application will be measured along with all other grant applications on its merits.

Meanwhile, as a result of that unification of activity having taken place those residents of the Chicago area who utilize that facility will be likely to get the best in cancer care that is available under the present knowledge and present technology.

It does not worry me if the number of cancer centers increases. In fact it will be good for the American people and good for the program if they do, but it would worry me if the inference were correct that once we recognize one of these centers we assume a certain level of future commitment so that pretty soon our entire budget would go toward the support of these centers and that is not the way the Institute operates and works.

The inference of that fear in the Secretary's statement I think just indicates a little lack of feel and understanding about how the system works.

Incidentally, he is not alone in that. There have been a lot of people who have been worried that by the creation of these cancer Centers we were preempting the future research budget and that noncenter people would not be able to get funded. His statement I think is a reflection of that point of view which I am saying is a misunderstanding in relation to what the center does.

Senator SCHWEIKER. I think you have made it very clear.

What I understand you are saying is, just because you designate a Center that does not mean that any total dollar commitment or support level is guaranteed to that Center.

Mr. SCHMIDT. That is correct, and in general we do not support general patient care at any of these Centers that we have recognized.

We have given some of them—in an effort to meet the original legislative objective of 15—we have given some of them construction grants to help on clinical facilities as well as research facilities, but no commitment for the future.

Senator SCHWEIKER. On an individual basis along with all the other judgments you are making?

Mr. SCHMIDT. Every year.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Senator KENNEDY. Senator Pell?

Senator PELL. Mr. Schmidt, you may have heard the exchange with Mr. Weinberger concerning international cancer data banks and my questioning of him.

Are you satisfied with the progress that is being made on the development of the cancer research data bank program, or not?

Mr. SCHMIDT. Well, the Institute is working I believe as hard and as effectively on that as they can.

We devoted an entire panel meeting about 2 months ago to a review of everything they are doing. I have learned something in the last 2 years and that is that it is a lot more difficult to put a lot of this information that you are talking about and that I was talking about 2½ or 3 years ago into common language so that you can get some simple answers out of a computer very rapidly and that is one of the great problems they are struggling with because if our research experiments bore numbers and they were all done alike you could ask what the results were that would be susceptible to very simple computer language.

But, when you get to all the variations and all the ramifications, getting this down to the simplicity that you would like to see and that I would like to see if it were possible becomes a much more difficult task.

I think we have extremely good data processing people who are devoting full time to this and I think a tremendous amount of progress has been made and I think all the progress that can reasonably be expected will be made.

I think Dr. Clark might like to amplify this, particularly so far as the International Commission is concerned.

Dr. CLARK. I welcome the opportunity to present to you what we have done, because it happens to be at the appropriate time.

I was encouraged to proceed along this line for some 28 years in a major cancer institute.

One of the big problems has been in knowing what is current in research and therapy, what is being produced by other groups and institutions, and making this information readily available to our scientists. To achieve these goals, we have done three things very specifically since the National Cancer Act of 1971 was passed.

First of all, on the national scene, we have formed an association of cancer institutes. We are bringing in all the new cancer institutes to share the information we have acquired over the years prior to this act that would be useful to them, so that they can begin at the point of expertise where the older institutions are. There is no need for them to lose the time on a number of cancer-related activities when they can use the information already available.

One of those institutions that has been so extremely helpful in the past is Dr. Sidney Farber's institution (Children's Cancer Research Foundation, Boston). I want to do homage to him today, and I regret this is the first time I have testified here over the years without his presence and his encouragement. He has been great in science in an organizational way and in his unstinting effort to put the National Cancer Institute in a position where we could all benefit from the planning and knowledge that would emanate from the legislation that he encouraged.

I would hope his institution could proceed to become a national comprehensive cancer center and fulfill the dream he had for it under this legislation.

To return to my discussion about the plans of the Association of American Cancer Institutes we have now outlined 12 tasks for establishing cooperative activities and uniform practices for which we are sharing information with each other. We are proceeding under the direction of the National Cancer Institute to put these tasks together in documentary form, and to invite all directors of the new institutes and the directors of the older ones also to get together and to share their information.

We will have a Telex capability among us so we can have immediate exchange between libraries and for all types of information.

On the international level, the National Cancer Institute and AACI proposed to the International Union Against Cancer (UICC), which is a consortium of 76 nations in the world doing cancer work and was established on a nongovernmental basis, to share with us the development of an international cancer research data bank and to compile a directory of international cancer centers and institutes.

We have made great progress in these efforts under the direction of Dr. Gregory O'Conor and Dr. Frank Rauscher at the National Cancer Institute and will be able to deliver to a meeting in Geneva on May 25 the following accomplished facts:

(1) A preliminary directory of international cancer institutes and centers.

We ended up with 4,000 points of ingress to the international knowledge by simply going back to all the cancer literature that had been produced in the last 5 years, and finding where it originated.

We think we will end up with 300 or 400 centers in the world that are doing some cancer research. We will then try to share through these 76 UICC member-nations the information that is being generated from their countries. We will not duplicate existing repositories of data but simply mark where they are and define their capabilities for future use when we hopefully develop a common computer language for rapid information exchange.

In the end we will have a standardized means for end results reporting and classification of diseases, so we can have a common language in discussing all of our problems of research in relation to better cancer treatment.

All information about what is going on in any one phase of cancer will be available.

I recently visited Heidelberg, Germany, which has a new data processing center that is coordinating all the cancer research information in Germany.

In Paris they have joined together the 24 cancer centers in France. They meet on a quarterly basis and share information and common knowledge and funds. That information will be made available to the international data bank, too.

(2) An inventory of international cancer data sources or repositories will be delivered at the May meeting in Geneva, also.

We already have, as Dr. Rauscher told you, started the Dial Access, which has 267 specific questions and answers by telephonic communication to requesting physicians in 17 of the Southern States. It will reach 60,000 physicians.

On the first pilot trial of this system we had 3,000 inquiries in the first 10 months. We think that this will be very helpful, because it gives precise answers that are up-to-date from an expert in the field and a brief literature review.

Another area of international cancer research which is being conducted through the Committee on International Collaborative Activities of the UICC is the compilation of a directory of carcinogenic agents to increase the total knowledge of the very important field. Yesterday I met with Dr. McGovern, of the Board of Regents of the National Library of Medicine, in our own institution to discuss collaboration on making the cancer literature available for rapid recall.

This is very difficult, as Mr. Schmidt said, to develop a common computer language for recall of a comprehensive bibliography of a given subject in cancer.

We have at Anderson Hospital (University of Texas) a compilation of literature from many of the journals of the world that contain cancer-related material. We retrieve about 20,000 articles of clinical value per year, and we have been publishing and distributing this gratis for some years. This information well be turned over to the Library of Medicine to be put into the files so it can be recalled by regional libraries in any part of the United States, and that will be on trial by May.

Senator PELL. In other words, if some information is developed in Lyon, France, will this information be programed into the computer in the United States? Is it presently?

Dr. CLARK. It will be very simple to duplicate the tapes of either place, you know.

Senator PELL. Is it, or will it?

Dr. CLARK. It will be. The international data bank is now in the process of being formed. It is not yet completed.

Senator PELL. When do you expect, or hope, that there will be a depository in the sense we are talking about, an international depository?

Dr. CLARK. I would say in May these five points will be completed in their preliminary form and be made available for recall.

Senator PELL. May of 1974?

Dr. CLARK. Yes.

Senator PELL. Does this mean, so I know what we are talking about, that the results of the studies that are run in Germany and France are put into the bank, the data bank we have here, and a fellow in my city of Providence, R.I. can dial the telephone and ask the question to the computerized data bank?

Dr. CLARK. There will be an intermediary first on this, and it is going to get set up. We do not want to duplicate the repositories. We want to call on them, and it does become pertinent to the rapidity of retrieval if you have information duplicated and put into a computerized data bank in this country.

Senator Pell. Should there not be one repository where all cancer data is located? For example, you might want to know about an experiment that we run, and you do not want to query all the other centers in Europe as to whether or not they ran this experiment. It must be available quickly.

Dr. Clark. Right now there is a repository for ongoing research, and it is at the Smithsonian, where you can request information on any subject that is being researched in a specific field and get an answer.

Senator Pell. We are beating around the bush, I think.

The Smithsonian uses four by six cards. When will this data be deposited in what we call a computer?

Dr. Clark. This program is in the process of evolution, and it will take some decisions on the site or sites of the data bank or banks and regarding the immediacy of its capabilities for response. We do have a target date for the five things I mentioned.

Your all-encompassing complete information data bank would take some while longer to program and make available.

Senator Pell. What I am driving at, obviously, is to assess whether we are not going backwards in this area. I would hope you would go ahead, and what we are talking about here is the single depository.

Mr. Weinberger said bricks and mortar. I do not care if it is stone and steel, there should be a place where this information is on deposit.

I am not a systems training man, but I am very pleased with what they do, and I think what you are talking about is still little centers that you will have to query one by one.

Dr. Clark. First of all, you have to get what is available; otherwise it will take a long time and duplication of effort.

From that stage we can see what is required for immediacy.

It is the matter of studying the priorities and needs of the scientific community. We have to assess the scientific needs from that data bank, and also the immediacy of recall. In other words, if I inquire tonight, do I need it tonight, or would it be all right if I had it in the morning?

These are things that are in the process of being decided, and I have been personally encouraged by the returns on this.

Senator Pell. But you say the process is being decided.

I believe that the law has already decided that we should go ahead and do this.

Dr. Clark. I mean of the methods.

Mr. Schmidt. Senator Pell, we have hired some of the best data processing people we can find anywhere in the country, and we have borrowed some others, and they have been doing the best job they know how to do to carry out the mandate of the law.

Unfortunately, this information is not as neat, and as labeled, and as uniform as you would like it to be, and as it needs to be for computerization to have maximum effectiveness, so when your doctor in Providence calls up and asks a question, even if you have this computer, if he does not ask the question exactly like the man who put it in the computer said it, or asked it, then he will not get the answer back. And as I said earlier, these discoveries and experimentations do not take a uniform form.

Now, we can, and we are compiling a great deal of information that will be available in Providence, and available in Houston, and available in Paris, and if you ask the right questions, the answers will come out, but if a man is about to do an experiment that has just occurred to him and he wants to know whether that experiment was done or not, I doubt very much myself, and I am not expert in this field either, but I have gotten to know more about it than I did before this assignment came along, and I doubt very much if you will ever have the commonality of language and the capability of programing to anticipate questions that your doctor or my doctor or somebody else's doctor would ask about prospective research experimentation.

We know what the mandate of the law is, and we are going to come as close to carrying out the mandate of the law as current technology and reasonable resources make it possible to do.

Senator Pell. Let me make sure I understand what you are saying.

Are you saying that a laboratory might consider going into an experiment, and would not be able, even if this mandate was carried out, would still not be able to find out if this experiment had been carried out in Germany, or some other country?

I would disagree. My understanding was that this kind of question could be taken care of.

Mr. Schmidt. That kind of question will require a description of the proposed experiment in total detail, and unless the man who has programed the computer knew how to anticipate that program there is no way you can make a computer answer a question that has not been anticipated by the man who programed the computer.

We can answer the questions that our people are smart enough to anticipate, but we cannot answer the questions that have not been anticipated by the man who programed the computer.

Senator Pell. But if every experiment has been carried out, has been programed into the computer, then the result of the experiment can be asked?

Mr. Schmidt. But it has to be programed with a title and a word.

For example, we have been trying to get this computerization at the major centers themselves. That in itself is tough.

We have a program at Sloane Kettering today that if you ask a key word, no matter what it is, it can be the name of a drug, it will give you the listing of everything that is in our library that relates to that, but then if you punch the computer buttons that require all those answers you will get volumes of material out on that subject.

I think we have made considerable progress, and we can make more progress in the direction of this, but I do not think we will ever have it as neat and as nice as we would like to have it for the reasons that I have given you.

I just do not think you can anticipate all the programs and all the questions.

Senator PELL. But you do see an international data research bank as more than the label on the door and actually existing at some point?

Do we have that, as yet?

Mr. SCHMIDT. I do not know whether the label is on the door or not, but there is a place in the National Cancer Institute where this function is being performed.

SENATOR PELL. Under this label?

Mr. SCHMIDT. Under that label.

Senator PELL. I have two more very brief questions on the subject.

One, do you really mean, Mr. Schmidt, the optimism implicit in your statement that we are beginning to achieve greater uniformity in the delivery of optimum care for such cancers as leukemia and certain other childhood cancers, for Hodgkin's disease, and for other rapidly growing lymphomas?

All of these cancers appear to be susceptible to complete cure in a high percentage of the cases where early diagnosis is accompanied by aggressive treatment.

Mr. SCHMIDT. I think you will get different views from different clinicians about how high the percentage is, but there is pretty general agreement today that it is over 50 percent.

Senator PELL. For leukemia?

Mr. SCHMIDT. In childhood leukemia, if it is diagnosed at an early time and treated correctly from the beginning. and treated aggressively from the beginning.

Now, one of the problems is that we have only had these protocols that are producing these results—well, beginning 6 or 7 years ago and being improved all along. And so when you get a 5-year period with no symptoms and no indications of regression, you are hopeful that that is an indication of a complete cure.

You may find out 20 years from today that it was not an indication of a complete cure.

Senator PELL. Thank you.

My final question is, is it correct that cancer is not contagious—even though perhaps a virus?

Mr. SCHMIDT. I think that is the best information that exists today.

There have been a few little things that caused people to wonder about certain types in certain situations, but I think, in general, most of the clinicians and scientists who work in the field proceed on the assumption it is not contagious.

Senator PELL. Thank you.

Senator KENNEDY. Senator Javits has some questions.

Senator JAVITS. You are satisfied, with regard to the manpower and personnel questions, that we will be able to get the 109 slots filled?

Mr. SCHMIDT. I think, as a result of the responses we have recently had, we will carry on the work of the National Cancer Institute satisfactorily with the additional places that we are being given.

We still have problems that are common to all the Government, that a lot of our top people have not had salary increases for several years.

I think there are about 70 people in the National Cancer Institute who make the same salary as the Director today because everybody is pushing against the ceiling, but that is a problem that is common to the Government.

There is one special problem, and that is a personnel problem that concerns us. It is a NIH problem specifically, but we still do not see a sufficient complement of nurses in the NIH Clinical Center to operate the Center at the levels that it should be operated at.

It seems to me that is a bad economy and we have made the point a number of times, and we will keep making it. But, apart from the nurse point, we have gotten pretty good satisfaction on our other specific personnel requirements so far as number of people are concerned.

Senator KENNEDY. Thank you very much, gentlemen.

Our next panel of witnesses are representatives from the Candlelighters of Washington, Mrs. Grace Monaco and Mr. Richard Sullivan.

Mrs. Monaco is associated with the firm of Wheatley and Miller.

Mr. Richard Sullivan is chief counsel to the House Committee on Public Works.

We welcome you both.

STATEMENT OF RICHARD J. SULLIVAN AND GRACE A. MONACO, REPRESENTING THE CANDLELIGHTERS

Mr. SULLIVAN. Mr. Chairman and members of the committee, my name is Dick Sullivan, and with me is Grace Monaco.

With your permission, we would like to file the full statement for the record.

Senator KENNEDY. We will have it printed in the record at the conclusion of your testimony.

Mr. SULLIVAN. Mr. Chairman, you state we represent a group called the Candlelighters who are parents of children who do have or have had cancer.

At the present time, there are groups in 16 States, and in the ultimate sense we can say that we are the consumer here today.

The results of the research program is what kept our children alive for a certain period of time.

Through the continuation of this type of research program, we can eventually reach the solution we all desire. We are all extremely grateful to you, as chairman of this subcommittee, and your members, and your counterpart in the other body, Congressman Paul Rogers of Florida, for the lead you have taken in this important field.

There is nothing more important as far as we are concerned at this particular time than the welfare, well-being and the future of our children. As you know and I know and Mrs. Monaco knows, and the members of your committee know, this is one of the most insidious of all diseases. It hits children unexpectedly, and in many cases parents do not realize that cancer can hit their children.

It is the leading killer of children in the United States.

The 1971 Act that you gave to us as parents was indeed a fine Christmas present and once again, not to overdo the compliments, we do commend you, both bodies of the Congress and the President of the United States for writing this act into law.

We note the funding for that program was $1.5 billion over a 3-year period of time. Unfortunately, like so many programs that the Congress has authorized, there has been a failure to fully fund the authorized figures.

There has been an up and down, a sliding scale, Mr. Chairman, and the money has been, in some cases, impounded or, unfortunately, been caught in tangles of other labor and health and education programs, and there have been several vetoes of this particular type of legislation.

Research is a continuing process that must be carried on. It cannot be done like a yo-yo jumping on a string up and down. And we would strongly urge this committee of the U.S. Senate and the House of Representatives and the President himself to see to it that in this particular category we move steadily forward in the field of research.

We must move ahead with this thing. It has to be the ultimate answer to what we all seek.

You are now considering a further amendment to the basic act of 1971. We strongly support and urge a continuing funding of this program at a higher level.

We would respectfully suggest to you, from our experience, that the figure be somewhere in the category of $2.7 billion over the next 3 fiscal year periods, taking into consideration the increase in cost and the rising inflation that we are dealing with.

This is one of the points we wish to make about a continuing funding for the research program.

The second point we would like to throw in, too, briefly is the question of impoundments. You are all familiar with that in many fields. You are, sir, very much so.

We know what has happened in the water pollution field and other vital programs.

This question of impoundment must be stopped. There have been successful suits in the lower District Courts which have required the executive to release these funds.

You have had legislation which has passed the Congress of the United States which clearly prohibits the impoundment of funds for public health services, such as the legislation we are concerned with today.

We would hope, in the final markup by your subcommittee, and eventually by the Full Committee, some sort of language which would prohibit the impoundment of these funds for this particular field would be contained in the legislation because of the vital necessity of what we are dealing with today.

In addition to this, Mr. Chairman, we have listened with a great deal of interest to the comments of Secretary Weinberger and Mr. Schmidt about the 15 cancer centers in the country. We naturally cannot speak to you from the technical expertise on health and education, but we can say to you from a very practical viewpoint, Mr. Chairman, that we need more than 15 centers for only one reason, because of the physical factor.

We know from our own experience from people across the country that in many cases people have to go a day or more either for research or actual treatment. This is a hardship. It sometimes forces the family to move and can have an ultimate effect on the health and well-being of the children being treated.

We would hope there would be an expansion of these 15 centers. We would propose to you a figure of 33 or, if not that, we would leave that to the discretion of the National Cancer Institute, but somewhere along the line we want to stress the need for and the desire to expand the centers beyond the existing 15 because their work is vital to the continuing success, both from a research standpoint and from a health standpoint of children who are being treated and whose lives depend on the legislation you are considering now.

In addition to that, we are concerned about the fact that you very correctly gave an independent status to the National Cancer Institute so it cuts through the maze of red tape you deal with in Government and allow them to report directly to the President of the United States.

We hear disquieting rumors to the effect that in many cases, they are being handicapped by the National Institutes of Health or the Secretary of HEW.

I am familiar enough to know we are not too sure of this, but we want to point out to you that you would reemphasize the independence of the particular group.

I was happy to hear yesterday when I talked to the people down at the budget, and as you commented today, that these positions are being released because these positions are vital and essential to the operation of the program.

It is nice to have money, but without the professional people to carry out the programs, what good is it?

This is another thing that was held up by some man downtown who determined he knew what to do when the Congress had made a decision about these positions.

Mr. Chairman, as we see our children treated, we know that the job is being done. We know that if it is to be done, it will be done at NIH, at Children's Hospital in Washington, D.C. and similar institutions across the country by the doctors and the people in the field who keep this program going and give us hope.

Senator Pell has stressed and properly so in his comments both to Secretary Weinberger and Mr. Schmidt, Mr. Chairman, the need to develop an international data bank.

We respectfully suggest to you there is a need to develop a domestic data bank in this country, Mr. Chairman, and let me tell you why.

There is, we find, not in a critical sense now, in many cases, an appalling lack of knowledge in the field on what is a cancer.

In many cases, there is a misdiagnosis by a physician. Sometimes it takes two or three doctors before the ultimate diagnosis is made that the child has leukemia or has a solid tumor. Valuable time is lost in which that child could be treated.

We propose to you a domestic data bank, Mr. Chairman, to correlate the information across the country, tie it in so that doctors, the medical people, the researchers, will know what is going on, and the parents themselves will have a better knowledge and understanding of what the program is and have more confidence and more support when they feel their child is getting the best treatment possible under these circumstances.

There is no more difficult period for a parent, Mr. Chairman, than that moment when the doctor comes to you and tells you your child has cancer and the possibilities are that he has 1 year or 18 months or 2 years to go; it is helpful if they can also be told that all right, this diagnosis and expectancy may be true, but somewhere down the line, hope may exist, and the best possible information is going to be made available to realize that hope.

Under those circumstances, we think there should be a domestic data bank. I do not say this in an emotional sense. I say this in a very practical sense, that we figure there is a need, a crying need, to take a long look at creating a domestic data bank, and there would be no better place for it than the National Cancer Institute itself.

I may be talking a little too long, but I would like to make one final point.

There is a need to continue and expand the fellowship program. We know from practical operation in Children's Hospital here that these young doctors, who are coming in to research and treat our children, depend on the subsidies they are getting from the fellowships. These doctors are acquiring the background and training through this program to eventually become the experts.

We would like to conclude by thanking you for the opportunity to be with you today. We think the committee has done an excellent job. We think the President has done an excellent job, the Secretary, and everyone else.

We are simply here to say and stress the vital need of and urgency for the research program to continue.

We think the supportive clause should be in there and hope and pray that you will come out with a strong bill and get unanimous support.

I thank you for the time of the committee.

Senator KENNEDY. Thank you.

[The prepared statement of Mr. Sullivan follows:]

STATEMENT OF THE CANDLELIGHTERS

Before the
Subcommittee on Health
Senate Committee on Labor and Public Welfare
January 30, 1974

We represent the Candlelighters, a group of Washington area parents whose children have - or had - cancer. There are similar groups in 16 states. My name is Richard J. Sullivan, and with me is Mrs. Grace Anne Monoco. One of the chief aims of our group is to improve federal cancer research programs. We know that the lives of our own children have been extended and, in some cases, saved through cancer research efforts funded primarily by the federal government. In the ultimate sense, we speak for the consumers of cancer research. Since our children's lives depend upon cancer research we have become sensitive to deficiencies in the program as well as the needs to expand it.

Under the leadership of this Committee, and particularly of the distinguished Chairman, Senator Kennedy, as well as his colleague in the other body, Mr. Rogers, the Congress enacted the National Cancer Act of 1971 which the President signed into law on December 23, 1971. This "war on cancer" was a Christmas gift to the nation and all of us are profoundly grateful to you, to the Congress and the Chief Executive for this initiative in an area that touches the lives of every American family. As is true for all initiatives, this one, too, has had some of its bright hopes unrealized, and we wish to discuss some of these deficiencies in this testimony and perhaps suggest some improvements.

The first and foremost item which we wish to raise for the consideration of the Committee is resources. The National Cancer Act of 1971 authorized appropriations of $400 million for FY 1972, $500 million for FY 1973,and $600 million for FY 1974. The actual amounts appropriated fell far short of this goal principally because the President requested less, and repeatedly vetoed appropriations which came close to the authorized amounts. Added to the problem raised by these lesser amounts was the impoundment of funds which aggravated an already tight situation with respect to research, and which has seriously retarded the national cancer program. It must be clear to anyone that cancer research is not something that can be turned on and off. Impoundment has without a doubt a very long negative effect on the progress of the research projects. Our children profited from the cancer research investment made in years gone by, but the loss of momentum resulting from underfunding or impoundment will seriously affect the millions of Americans who will develop cancer in the years ahead, as well as those presently suffering from the disease. The Administration has compounded the funding problems related to research by impounding positions as well as actual resources. It was only a public outcry which caused the Office of Management and Budget to release 107 positions for the National Cancer Institute required not only for research projects but also for the cancer treatment, itself.

The $1.5 billion which you authorized in PL 92-218 did materialize in lesser amounts, and then only grudgingly. The 60 million impounded from the FY 1974 has allegedly now been released under conditions which make it questionable that the maximum research yield will be obtained promptly. We find it very difficult to obtain adequate information on funding and we hope that this Committee will press the Administration with vigor to determine whether or not the FY 1974 appropriations have already been released.

Despite the budget shortfalls, and despite the impoundment and despite the bureaucratic harassment, the National Cancer Act of 1971 has been a good and wise investment in the wellbeing of our country and our people.

We sincerely believe that real and concrete strides have been made which have benefited our children. We must not stop or falter. The legislation must be extended. In terms of resources, we would propose to Congress to authorize $2.7 billion for the next three-year period. We would further propose that the language presently contained in Section 601 of Public Law 91-296 forbidding the Chief Executive to impound public health funds should be carried into the new legislation, and meanwhile this provision should be extended beyond the June 30 expiration date. We feel that $2.7 billion divided over a three-year period is a realistic amount, given the base of the first three-year period and the high rate of inflation which has lessened the value of the amounts initially proposed in the 1971 Act.

We further ask that the limit of 15 national cancer research centers be stricken, and that the legislation leave the number to the discretion of the Director of the National Cancer Institute. If this is not possible, we would ask that the number be raised to 33. We know from our own groups around the country of the hardship it places on many patients to drive very long distances for the frequent treatments necessary to abate the course of the disease. Unless such centers are within a one day's drive for a patient, it will place out of reach the absolutely essential elements of treatment for a very large number of Americans who are so affected. We must enable the largest number of Americans possible to benefit from cancer research. A larger number of centers are essential for this purpose.

We have alluded earlier in this testimony to the impoundment of positions. This is a very serious matter. Obviously additional resources cannot be effectively utilized if personnel positions remain frozen. Provision should be made in the legislation to free the Director of the National Cancer Institute from the bureaucratic restrictions placed upon them by the NIH and the Department of Health, Education and Welfare. It does not seem very logical to promise the American people a cancer control program and then not allow positions to be filled. We could tell some horror stories of cancer wards at NCI remaining empty because of lack of personnel, and laminar flow rooms, which could have prolonged a child's life, being un-utilized because of positions which could not be filled. We must not permit some faceless bureaucrat to superimpose his judgment on personnel over those of the Director of the National Cancer Institute.

We also believe that separate provisions should be made in the new Act for the funding of a cancer information clearing house which would provide to the physicians and the public current information on cancer treatment.

We hear from our members all too many stories of misdiagnosis and mis-information which has caused needless suffering and frequently has prevented timely and adequate treatment for this disease. There is a tremendous gap between what could be done for the cancer patients and the care that individual physicians are delivering. The following example might illustrate the point: children who have leukemia must undergo periodic bone marrow tests, a very painful procedure where a needle is inserted into the hip bone and the marrow is extracted in search of the leukemic cells. Some of the Florida Candlelighters told us of a new method whereby the parent can attach an anesthetic bandage to the hip three hours prior to the insertion of the needle, which relieves the patient of most of the pain.

We informed the NCI and, finally after a considerable period of urging, the NCI has now adopted this method of preparing the patient for a bone marrow test. The pain and suffering which could be avoided by the dissemination of just this little piece of information alone would make the insertion into the Act of a provision for the cancer information clearing house very worthwhile.

The present language of the Act, for an international research data bank, deals only with research, and we need to do so much more with respect to treatment, particularly information to the family physician or pediatrician who is usually the first doctor contacted with respect to the disease.

The family physician needs a central information center which can give him the most comprehensive and specific information on the treatment of each specific cancer problem that he may encounter. Such information will also permit the parents of the stricken children and older cancer patients to cooperate completely with the physician in charge of their child or relative's treatment to provide the proper nutrition and supportive environment for the optimum success of the treatment program.

The knowledge in the data bank must constantly be updated and changed; and it seems to us that only the NCI itself can do this task. Cancer victims, their families, the parents of children suffering from the disease, should have the peace of mind that the treatment which is being given is the most up-to-date, and is the best that can be provided. We strongly feel that this is presently not the case, and it would be a wise investment to create a cancer treatment information center.

In the past few years, we have received many questions concerning nutrition, both from our Washington membership and from other parents around the country. We have learned that there are some isolated research projects in this area being carried out in various parts of the country supported by NCI funds. However, there is no coordinated nutrition effort at this time. With so many foods and food additives being declared carcinogenic by the FDA, it is very confusing for the average housewife to know what she should or should not feed her family. Furthermore, when you have a cancer patient on a sophisticated drug regimen, this problem is greatly compounded. Thus, an enlargement of the research effort in this area and a coordination and dissemination of the results of these efforts through the public data bank we have just discussed is greatly needed.

We hear again and again of the interference by the Department of Health, Education and Welfare and by OMB in the work of the National Cancer Institute. Despite the language presently in the Act, HEW regulations require that the head of the Cancer Institute must clear any public statements with HEW. We believe this to be totally wrong. The American public has every right to hear directly from the head of the NCI without clearances from the HEW hierarchy.

We further believe that OMB, HEW and NIH have illegally interfered in the allocation of positions and resources to the NCI, and feel that there should be new language in the extension of the law to prevent such interference in the future.

In the past three years, the bureaucratic interferences have negated specific authorization and appropriations for such items as training programs. The will of the Congress has been expressed by means of authorizations and appropriations, and the executive-branch must be made to obey its constitutional mandate to faithfully execute the law. We leave it to the Committee to find the means of doing so.

Mr. Chairman, we are grateful to you and to the Committee for permitting us to appear before you. We want you to know that cancer research has been effective, not as effective as we would have hoped it would be, but, nevertheless, strides have been made and the lives of our children, in many cases, have been prolonged, and for this we are grateful.

The recommendations that we have made are intended to strengthen the program. Our criticism was not meant in any derogatory sense, but is evidence of our desire to overcome the deficiencies which we have found. The war against cancer will not be won easily and cheaply. An advance has been made. We ask you to extend the Act for a second stage, during which we hope that the progress will be more rapid.

Thank you.

Senator **Kennedy**. Mrs. Monaco?

Mrs. **Monaco**. The only points I make in supplementing Mr. Sullivan relate to the data bank and to the point made with respect to the need for increased research in the area of nutrition.

Fortunately, the founding member of our South Florida Candlelighters has a husband who is a medical librarian. As a result of this, sometimes we find out things before some of the doctors are even aware of them.

For example, about 2 years ago, our South Florida chapter forwarded to us the information that there was an anesthetic patch available that could be placed on the spot where a lumbar puncture or a bone marrow would be done on a child a few hours before it was done, and this would remove a great deal of the pain and the resultant fear associated with this type of treatment.

Some of these children have to undergo a number of lumbar punctures in order to get the drugs introduced into the system to kill the infiltrating cancer cells.

Due to the work of parents' groups exerting pressure on the Clinical Center at the National Institutes of Health and bringing the knowledge to their attention that one parent's group had given to another, the National Institutes of Health, at their Clinical Centers, now are using this lumber puncture anaesthetic device.

This is the type of information that we hope would be available through a data bank that our family physicians, our treating physicians and the public themselves, particularly the parents who are involved and want to play a strong supportive role in the treatment of their children, would be able to have access to. Because with this type of information, we can ease the pain resulting from some of the types of treatment the children have to receive to make their time more pleasant, and certainly make them have less fear of the very necessary treatments that go into prolonging their lives.

Also, as Mr. Sullivan has pointed out, we have horror stories from all over the country in our various groups on children who are misdiagnosed, and this has played an important part on their longevity, for example because of the lack of knowledge on the part of some pediatricians and the family physicians who are the first ones to examine the child, many times the child will be initially diagnosed as neurotic instead of cancerous.

Also, there is another area that we would like you to stress. We know that there are some nutritional studies that are being done at NCI now, but there is no coordination of the data from these nutritional studies and application at the clinical level.

As parents, we have seen the very important part that nutrition plays in the treating of children with cancer who are on drug regimens.

When you are in a carcinogenic situation and are on some of these massive drug regimens, you have to be very careful of the type of food you are ingesting. You do not want to complicate the problem the drug is giving you but to give your system the best type of defense.

These are the sorts of things that we, as parents, see in the treatment of our children.

We are parents, we do not want to practice medicine.

However, at this point, many times the parent has to practice medicine because there is no data available and disseminated to the treatment centers that there are certain forms of diet that are going to be most beneficial in a certain type of drug treatment.

We thank you, Mr. Chairman, for your past efforts on our behalf, and we certainly are interested in answering any questions that you might have that our expertise might touch on.

Senator KENNEDY. That was very powerful testimony and very helpful to the committee.

I understand, you support the legislation and the amendments incorporated in the bill.

Mr. SULLIVAN. Yes, we do.

Senator KENNEDY. You refer to it in the course of your statement and I think you elaborate on it, but these points are very worthwhile.

We will ask Dr. O'Conor and Dr. Rauscher, who was in charge of the data bank, for some responses to your points on nutrition. We will also explore what they are doing with regard to your points about the anesthetic for lumbar punctures, in addition to some of the other points you have raised here.

Let us see if we cannot begin to develop an open line of communication.

Mr. SULLIVAN. We would appreciate that.

We started 4 years ago, and it has expanded all across the country.

Mrs. MONACO. As Mr. Sullivan pointed out before, we have been concerned about the personnel problems and the job slot problems, and we stress this again, that for 2 years we have been talking about this and, suddenly, because of a public outcry and the work of this committee, the positions have been released.

Further, as Mr. Schmidt pointed out, this position release and authorization has not gotten down to the level of the NCI clinical treatment center re the level of the nursing and supportive personnel. They have many programs up there, and with the current status of drug treatment could prolong the comfortable lives of many children who have gotten to a low point and who need to have their own immune systems built up to continue their fight.

It is a shame to see the facilities that can save lives stand empty because the personnel are not available to make sure these facilities are properly utilized.

Senator KENNEDY. Well, I hope you will keep the heat on. I think it is terribly important that we do.

I think the reason we have seen as much progress in this area as we have is the very deep and legitimate concern of citizens like yourselves. I hope you will keep knocking on the doors and hollering from the belfries. I am sure you will.

Let me again thank you.

Our next panel consists of Dr. Emil Frei III, director, Children's Cancer Research Foundation of Boston, Mass.; accompanied by Dr. John Durant, director, Comprehensive Cancer Center, University of Alabama, Birmingham, Ala.; and Dr. Jesse L. Steinfeld, chairman, Department of Oncology, Mayo Clinic, Rochester, Minn.

Gentlemen, we are glad to welcome you. You testified before the committee as the former Surgeon General, Dr. Steinfeld.

For the witnesses who are here we will just keep on with our hearing and not break. We will have to recess around 2:00 to vote but we will continue on.

Dr. Frei is a distinguished researcher at a marvellous center, as all the centers are.

I appreciate your presence and look forward to your comments.

STATEMENT OF DR. EMIL FREI III, DIRECTOR, CHILDREN'S CANCER RESEARCH FOUNDATION, BOSTON, MASS.; ACCOMPANIED BY DR. JOHN DURANT, DIRECTOR, COMPREHENSIVE CANCER CENTER, UNIVERSITY OF ALABAMA, BIRMINGHAM, ALA., AND DR. JESSE L. STEINFELD, CHAIRMAN, DEPARTMENT OF ONCOLOGY, MAYO CLINIC, ROCHESTER, MINN.

Dr. **Frei**. Thank you, Senator Kennedy.

It is my privilege and honor to have been chosen as successor to Dr. Sidney Farber, founder and previous director of the Children's Cancer Research Foundation in Boston. This organization was started 26 years ago, and, until the past several years, has been devoted primarily to patient care and research in cancer and leukemia in children.

In view of the increasing progress in the treatment of childhood cancer and with the increasing number of basic and clinical research leads with respect to cancer, Dr. Farber initiated a program approximately 5 years ago to substantially enlarge our cancer center. This has led to the construction of the Dana Center, a 17-story building which will open this year and essentially triple our resources for clinical care and research. The Dana Center will be devoted primarily to clinical care and clinical research for adults with cancer. Thus in a sense, our center which was recently named a comprehensive cancer center by the National Cancer Institute is both old and new.

While we have autonomy with respect to programing and the utilization of resources, we are part of Harvard University and the Harvard Medical School and our appointments are made through the Harvard academic system. Through a formal Memorandum of Understanding developed by the university, the medical school, the Harvard hospitals and our cancer center, the relationship between the hospitals and the center has been carefully defined.

This, I believe, is a prototype organization for a strong autonomous cancer program integrated and interacting with a medical school and university that has extensive expertise and resources in the basic and clinical sciences generally. Let me illustrate how such an organization may work to the advantage of the patient, clinician, and scientist.

Immunology is an extremely promising area for clinical and basic research in cancer. Harvard Medical School has an extraordinarily comprehensive and strong program in immunology. We have recently recruited an outstanding young man to head our program at the Cancer Center in tumor immunology. In addition to his basic and clinical work in tumor immunology, he interacts and works very closely with clinical and basic scientists at the medical school working in other aras of immunology.

This interaction has proven highly effective. Developing basic concepts and techniques in immunology are immediately communicated and, where appropriate, applied to tumor immunology programs at the center.

When, and if appropriate, such observations are applied in the clinic. Thus, we both have our cake and can eat it in the sense that we have a strong autonomous highly focused cancer program and at the same time, we have the help, good will, and interaction with and personnel and material resources of the Harvard general hospitals and medical school.

Parenthetically of course, we are available to them when our clinical and research developments are appropriate to their interests and needs. This pattern of development applies to other clinical and scientific disciplines relating to cancer such as chemotherapy, pharmacology, virology, etc. This development has been very substantially facilitated by the National Cancer Act.

I would like to turn from the general to the specific and illustrate two areas of clinical research. Prior to 20 months ago osteogenic sarcoma, as indicated in this illustration, was associated with spread to the lungs, starting within a few months and by 12 to 18 months, some 80 percent of the patients had lung metastases. Starting 20 months ago, we employed combination treatment involving vincristine, methotrexate and citrovorum factor.

I won't go into the details of this treatment except to say that of the 14 patients treated starting 20 months ago, only one has developed lung metastases. When this is presented in terms of survival, you will note that prior to July 1972, only 40 percent of patients remained alive at 20 months whereas 100 percent of the patients whose treatment was started during the past 20 months remain alive.

Thus, there is preliminary evidence that major progress has been achieved in the treatment of an otherwise highly fatal tumor. This progress has been achieved in the past 2 years, as a result of the application of laboratory and clinical research in cancer.

The next illustration shows results in the treatment of acute lymphocytic leukemia achieved during the past 18 months at the Children's Cancer Research Foundation. Of 60 patients 96 percent entered complete remission and of these, 92 percent remain in complete remission at 18 months. If one plots the survival from time of diagnosis, 92 percent of all patients remain alive at 18 months. If one extrapolates this data out to 5 years, based on assumptions derived from previous studies and other diseases, more than 50 percent of patients will remain in complete remission, that is, free of clinical and laboratory evidence of disease. Of patients who remain in complete remission for 5 years, over 50 percent should remain disease free indefinitely. As you know, there has been steady progress in the treatment of acute leukemia.

I want to emphasize that this progress has been so substantial that experience in recent years is entirely consistent with the realistic hope that definitive control of at least some patients with this disease has been achieved and will increasingly be achieved.

These two examples of progress that I have presented to you can be most readily accomplished when the medical, paramedical and research expertise, material resources and patients are concentrated in a cancer center. This is essential since the delivery of cancer services, clinical cancer research and basic research in cancer is becoming increasingly multidisciplinary; that is, it takes a team effort.

It is extremely important, and it has indeed been a charge of the National Cancer Act to the comprehensive cancers centers to play a leadership role in what is known as cancer control or the outreach program. Briefly defined this means that the very best of patient services in cancer ranging from prevention, detection, diagnosis, treatment, followup and rehabilitation be made available to every American. In addition, progress in clinical services and treatment such as I demonstrated should be extended to the community as rapidly as possible. Accordingly, we have recruited a top-flight leader for our cancer control program and are working in collaboration with the other major cancer programs in the Boston area in developing a cancer control or outreach program.

Ultimately, patient care services must and should be delivered in the community and the emphasis of our cancer control program is, wherever possible, to assist communities and community physicians in developing clinical cancer programs.

Such programs will have continuing relationships to the regional comprehensive cancer center in areas of postgraduate education, patient referral, emergency and elective telephone consultations and other interactions.

The enlargement of our cancer center, the increased resources for patient care, clinical and basic research and our community outreach program has been made possible through the National Cancer Act.

I would emphasize that while considerable progress has been made in cancer, and while we have come a considerable way, we have still a longer way to go. Thus, the Children's Cancer Research Foundation, in addition to increasing its resources through private support will be calling on the national cancer program for continuing and increasing support for our enlarging program.

We are by no means fully funded for maximal activity. It should be emphasized that we work very closely with the national cancer program and many of our clinicians and scientists interact with the clinical and scientific activities of the National Cancer Institute and serve in major advisory capacities.

In summary, the original basic justification for the National Cancer Act was that cancer represents a major health problem for Americans and that there were many research developments and leads both at the basic and clinical level, which indicated that expanded support for cancer activities, whether in cancer centers or elsewhere, was a good health investment.

The National Cancer Institute was initiated only 3 years ago, and while it has had growing pains, I believe these pains represent exactly what they are, signs of growth and health. It is not surprising that scientists disagree on the relative emphasis that should be given to, for example, immunology as compared to chemotherapy research. The fact is that both of the above disciplines have, and will continue to contribute to progress in the control of cancer and must be supported. It is also not surprising that clinicians and scientists disagree on the relative merits of a mission-oriented program such as a cancer center as compared to cancer-related research in the traditional university system. Both are essential since certain types of progress in the control of cancer can best be achieved in mission oriented cancer centers while others are best achieved employing more traditional approaches.

Scientists and clinicians may take extreme positions and such positions are often most vocal and newsworthy. I would hope that you would not be deterred by the controversies and flack that attend the enlarging cancer program but rather that you would recognize them as the pains that occur and are essential to rapid growth and progress.

I wish to thank the committee on behalf of our center and of cancer workers all over the world and most particularly on behalf of patients whose health will be benefited by the National Cancer Act and its continuation.

Senator KENNEDY. Dr. Durant?

Dr. DURANT. Senator Kennedy, I want to thank you for the opportunity to talk to you and to tell you today about the development and progress of the Comprehensive Cancer Center in Birmingham.

I am speaking to you today, not only as director of the center but also as the president of the Alabama Division of the American Cancer Society, representing 43,000 volunteers. The subject of cancer research and control has been particularly important to me since I became philosophically committed to the importance of cancer centers in 1962 to 1963, the year when I was a fellow supported by the National Cancer Institute Training Grant at Memorial Hospital in New York City.

The first thing which made the center in Birmingham, Ala. possible was the combination of outstanding enthusiasm and support of the people of Alabama and the existence of the National Cancer Act of 1971. However, more importantly the real impetus to the development of our center began in 1968, with a human tragedy, the death of a young person in the prime of life, namely our former Governor, Mrs. Lurleen Wallace. Concerned about the distance she had to travel to the M.D. Anderson Hospital and inspired by her personal courage, the people of our State responded to a private fund-raising effort of the Governor, Mr. Albert Brewer. Over 40,000 people contributed a total of nearly $5 million, virtually all of which has been collected. The purpose of this money was to provide matching funds for the development of a cancer center in Alabama. Alabamians were used to supporting important health care measures, having seen a major academic medical school grow up in a quarter of a century, watched the development and contributions to cancer of the Southern Research Institute, and repeatedly returning to the Senate the Honorable Lister Hill. Fortunately, for us, the National Cancer Institute had a program with funds to support a planning grant for the development of a center in Alabama. From 1970 to 1972 we received approximately $225,000 to work out the plans of our program. In addition, the Alabama regional medical program, through its local regional advisory group provided additional planning funds of $161,493 to plan a regional program in radiation therapy. These funds not only provided help in getting started, they also provided tremendous impetus for interest in cancer among both patients and physicians. This has increased our influence on the delivery of medical care tremendously.

I believe that there are two fundamental problems facing humanity in relationship to cancer. The first is the gap in our knowledge concerning certain fundamental information about the cause and biology of cancer. The second is concerned with the gap in delivering to all of the people the best of what we already know. There tends to be some kind of artificial division in the minds of many people who insist on making one or the other of these of primary importance. This should not be. Both can and should go on together as there will be no sudden breakthroughs which will suddenly abolish the problem but rather the gradual development of knowledge and techniques, and the application of these to clinical situations. Centers must and can stimulate progress in both of these areas. I believe the early results from our own efforts will confirm this.

In 1968 when I first came to Birmingham from Philadelphia, the number of new cancer patients seen at the University of Alabama Hospital and the Birmingham Veterans Administration Hospital were approximately 1,200 per year, or about 12 percent of the expected new cases for the entire State.

In 1973, only 5 years after the planning began and not quite 2 years after the award of our first center grant, approximately 2,300 patients were seen, or 23 percent of the expected new patients from the entire State.

We believe that our experience with the outcome in patients seen at our center supports the importance of the center concept. In review of all of our patients from 1958–72 our cumulative 5-year survival was 42 percent, a considerable difference from 33 percent, the widely publicized figure put out by the American Cancer Society.

In the period from 1968–72, our cumulative 5-year survival was 47 percent with a standard error of 3.5 percent, meaning that there was only a 5-percent chance that a survival rate above 40 percent was a statistical accident.

Furthermore, the epidemiologists and the statisticians in our cancer center assure me that these results are not due to special selection or distribution of cases.

In other words, the data seem to support the notion that referral to a major cancer center, such as ours and others like it can and does result in improved survival and that the creation of a center will result in an increasing number of patients having access to the diverse and complicated expertise of the facilities available at that center.

Our own efforts have been directed in two major ways. We have worked hard at developing basic, laboratory research programs directed at and answering some of the fundamental questions regarding the nature of cancer. We have been given the support to recruit and begin a program in the area of medical genetics which may ultimately answer fundamental questions about the ordinary control of cellular growth and division which is lost when cancer develops within a cell. We have supported research that has indicated some of the ways in which chemicals ordinarily not carcinogenic in themselves may act with other chemicals to increase greatly the potential to produce a cancer.

We have supported research which offers promise of understanding the development of the immune system and how alterations in this system can result in malignancy within the system itself or in the rest of the body. These are but a few of the programs whose growth and contributions have been aided by the development of the center in Birmingham. Each of them is, incidentally, improved and made more efficient by the fact that they have had to withstand peer review, the most single important factor in maintaining scientific excellence.

Not only have we supported basic, fundamental research, we have also worked very hard at developing a regional program which can respond to the direction of the original legislation which directed centers to develop programs which would involve practicing physicians of the region. In Alabama this is a necessity. We are one of the most indigent of the 50 States. We have one of the poorest physician-population ratios in the Nation. In order to address ourselves to meeting these sorts of problems it has been necessary to develop plans to utilize to the fullest scarce resources, personnel, facilities—particularly radiation therapy—and knowledge. We have developed a model telephonic consultation service which, although available to any physician with any kind of a patient problem, has seen calls about cancer become the most frequent category of request.

We have been enthusiastically received by physicians practicing radiation therapy in Birmingham, Anniston, and Huntsville, the areas in which the demonstration project is now working.

We have begun plans for a network for the treatment of patients with diseases of the blood and blood forming organs and have a specially trained nurse visiting regularly, a practicing oncologist in Mobile and Montgomery, and we are working out plans for extensive programs in the rehabilitation of patients with cancer.

We are working with the American Cancer Society in its "Let No Woman Be Overlooked" program to get a Pap smear on every woman in the State. The chief of our gynecological cancer service is active in that program which proposes to begin the collection of Pap smears on special populations of high-risk patients in eight of the highest risk counties spread throughout the State.

We have also worked at the development of facilities and personnel. We now have 58 physicians and investigators supported by 41 technical personnel in our program. This represents considerable growth since 1968. Through the generosity of the National Cancer Institute Center's program, we have been awarded $3.5 million in renovation and construction grants in the past 2 years. Almost all of this money is currently either being spent for facilities under construction or about to be let for bid.

The ability to respond so quickly to the needs of the people and the direction of programs has stimulated the Governor to designate $2 million in revenue sharing monies to construct 80 beds at such time as these become necessary and feasible.

In summary, I believe that we have made a small but significant beginning. Since planning began in 1968, we have doubled our patient load, improved somewhat our survival rates, built programs for and trust with community physicians, and begun construction of over 60,000 net square feet of facilities.

I trust that you will believe that this is sufficient evidence to continue support of legislation which will make it possible to deliver to those 40,000 people who originally donated money to the program and also to all of the people of the State of Alabama, the progress in both fundamental research and health care delivery which they were promised and are expecting. The next 3 years will not see sudden breakthroughs in Alabama, but I trust it will see the development of additional data and progress which will result in increasing cure rates and improved quality of survival for as many of the people of our region as possible.

Senator KENNEDY. Thank you.

Dr. Steinfeld?

Dr. STEINFELD. Thank you, Senator Kennedy. It is a pleasure to be here today to testify on the 1974 amendments to the Cancer Act.

I would like to divide my testimony into the following sections: I. The Problem: Clinical and Laboratory; II. Recent Accomplishments: Clinical and Laboratory; III. The Cancer Act; A. Strengths; B. Weaknesses; and IV. Recommendations.

I. THE PROBLEM: CLINICAL AND LABORATORY

Cancer will strike over 50 million Americans now alive—one of four of us in this room. One of six will die as a result of that cancer. This means that today one of three American victims of cancer is cured of his tumor using surgery and/or radiotherapy and/or chemotherapy. Obviously there is hope.

In the above figures lies the dilemma facing both biomedical research scientists and the Congress. We do not know the final or ultimate cause or causes of cancer. We do not know that final event by which a virus, chemical, or radiation changes a normal into a neoplastic cell.

And we are not certain who, where, or when such a discovery will be made; or how it will be translated into a preventive or curative measure for human cancer.

Because this is unknown—many members of the scientific community urge you to support "basic science"—biochemists, molecular biologists, geneticists, immunologists—because we are so far from understanding the nature of the neoplastic cell. And, of course, they are correct.

We need more fundamental information in oncology as well as all of biology. We need to train and nurture the brilliant, inquisitive young student, so that we can learn more about man and his diseases. Our bright and research-oriented youngsters are one of our most precious natural resources and we must train them, and provide the kind of career promise and stability which will attract them into science. This is important.

Cancer funds should be used to support both training in and the conduct of basic biomedical investigations.

But that is not all of the story. Six hundred and fifty thousand Americans will develop cancer this year and 350,000 will die of the disease. Many could be saved even though we do not know the ultimate cause of cancer, through what we do know about prevention, early detection and adequate treatment.

Currently we are, without any question, saving patients' lives, even though, I repeat, there is much about cancer that we do not know. Moreover, it is quite possible that in the final analysis cancer will turn out, like infectious diseases, to be many diseases.

Indeed, I have estimated that there are over 200 different human cancers.

Several centuries ago, physicians might have talked about curing or finding the cause of fever or infection at a time when they did not have instruments sufficiently fine to see bacteria or viruses. Even then, however, it was possible through sanitation, good nutrition, good hygiene, and vaccines to combat successfully many of the infectious diseases.

Similarly, with cancers. We can prevent many cancers, if, for example, our citizens would stop smoking cigarettes. We can also prevent other cancers by prohibiting the release of carcinogenic agents into our home or work environments.

We can identify high-risk groups with certain cancers, do diagnostic tests at regular intervals to pick up tumors at a stage when they are curable.

And, finally, we can use our tools more intelligently and in combination in the treatment of cancer: combining surgery, radiotherapy and chemotherapy and possibly immunotherapy in order to improve results. And all of this can be done now.

Mr. Chairman, it is obvious that we must both improve our present diagnostic and therapeutic armamentarium, and we must do more research on fundamental biological processes.

I would interpret the arguments you have heard about basic science versus the national cancer program as coming from the uninformed. This is not an either-or proposition.

I have interpreted the Cancer Act the Congress passed several years ago as recognizing the need to work simultaneously on both problems; and that was a wise decision.

I believe that in the renewal of the legislation, you can help bring the scientists together by making more explicit the dual nature of the thrust the Congress has proposed, and by earmarking to a certain degree funds for both programs. I will return to this in the recommendations later.

II. RECENT ACCOMPLISHMENTS: CLINICAL AND LABORATORY

It is the nature both of science and medicine that advances cannot be predicted, so that some of the progress in clinical oncology, as well as in basic oncology, has been made by scientists not wholly affiliated with the national cancer program. But most of the advances can be traced directly or indirectly to the support of the National Cancer Institute or the American Cancer Society.

In the past few years we have identified a group of young women at risk to development of vaginal cancer because their mothers were given the chemical, diethylstilbestrol, to prevent miscarriage during the first trimester of pregnancy.

More data has been obtained linking the body's immune system to cancer development since patients treated with immunosuppressive agents to permit renal transplantation have been found to have 35 times the expected rate of lymphomas.

Recent National Cancer Institute studies have shown that advanced non-Hodgkin's lymphoma patients can survive with control of the disease for long periods by combination chemotherapy.

In a large repetitive screening program—every 4 months—at the Mayo Clinic for heavy smokers at high risk to lung cancer, previously unsuspected lung cancer has been detected and localized during a subsequent screening, after the first tests were negative. In all but one of these patients it has been possible to remove the tumor surgically. This program, if successful, may represent a way to improve the otherwise dismal prognosis of the lung cancer patient.

Additional results are accumulating, showing higher survival in patients receiving chemotherapy after presumed curative surgery in tumor types with a very poor prognosis.

This may be the most significant clinical advance of all; in that it will stimulate well-controlled prospective combination treatment studies in the common cancers, which kill so many in the United States.

In the laboratory, great strides have been made in our understanding of animal tumor viruses, their transmission and multiplication.

In man, Herpes viruses have been implicated by immunologic techniques in carcinomas of the oropharynx and genitourinary tract. The carcinoembryonic antigen, CEA, and alpha-fetoprotein have been further studied as guides to the successful treatment of cancer and/or the extent of tumor within an individual patient.

At the cellular level, a component of the cell membrane, a glycoprotein, has been found to disappear when normal cells are transformed into cancer cells. This seems to be associated with appearance of an enzyme called a protease; and when the protease is inhibited, the cancer cells stop growing.

Of course, the number of advances in both clinical and laboratory science are enormous.

I want only to emphasize that the Cancer Act of 1971 has not slowed but, in fact, has speeded up progress at all levels.

III. THE CANCER ACT

A. STRENGTHS

1. The Cancer Act has focused the attention of the scientific and medical community, all of our citizens, the Congress and the executive branch of government on the cancer problem.

2. It has provided increased funds for clinical and laboratory research as well as for cancer control.

3. It has attempted to avoid bureaucratic interference with cancer programs by providing a direct budget link from the National Cancer Institute to the Office of Management and Budget, and by creating a cancer panel to monitor progress monthly and report delays and obstructions directly to the President.

4. It has recognized the need for a critical mass of physicians and scientists to achieve optimal clinical care and has required the establishment of a network of comprehensive cancer centers. These centers not only should provide a nationwide network for cancer diagnosis and treatment, but should become regional centers for cancer control and also should become centers of excellence in cancer research.

B. WEAKNESSES

1. The Directors of the National Cancer Institute and the National Institutes of Health have become political appointees rather than career scientists.

2. The number of comprehensive cancer centers to be named is too few to provide the type of care the Congress visualized as being within a day's driving distance for most citizens of the United States.

3. The act does not provide a specific budget, either in relative or absolute terms, for the training of biomedical scientists.

4. The act does not provide personnel within the National Cancer Institute in any way commensurate with the added resources in dollars. Not only intramural programs but extramural programs as well require scientific, managerial, and supporting personnel to operate them effectively. As an example, two National Cancer Institute wards at the Clinical Center are not in operation today because nursing personnel slots or ceilings are not available.

5. The act does not require adequate outside peer review of both contract and grant programs. This is important when the executive branch of Government decides for other purposes to eliminate large numbers of advisory committees, as has occurred this past year.

6. The act does not provide guidance as to what programs should be funded by which mechanism: grant or contract. Such guidance could insure a specific or percentage amount of grant-funded basic research.

7. Finally, the act proposes a truly national cancer program and plan, yet the National Cancer Institute functions administratively much as before, despite the great increase in its budget and responsibilities.

Mr. Chairman, these recommendations are made within the context that research can be carried out through a number of different administrative mechanisms.

First, the National Cancer Institute was functioning effectively within the NIH prior to the enactment of the plan of 1971; second, it could function well if the original act creating a separate agency for cancer research had been passed by the Congress.

However, the following recommendations are made within the context of the act as it was finally passed. Parenthetically, I would say a word here about the budget.

I certainly agree with Dr. Stone, Dr. Rauscher, and Mr. Schmidt that the cancer program should not be mounted at the expense of other Institutes at NIH.

I was very pleased to hear Secretary Weinberger indicate that the extra $100 million for cancer research the President proposed today would not be at the expense of other Institutes, and particularly pleased to hear Mr. Schmidt defend the need for additional resources within the other Institutes.

I should point out, if we add up the numbers, the President is proposing $100 million in addition to his original fiscal 1974 budget proposal of $500 million, whereas the Congress passed $540 million for cancer research in fiscal 1974. Moreover, there are some additional funds released from impoundment (approximately $50 million) so the latest increase should be viewed in this light.

I submit those numbers so the record will be clear.

Now, as to the actual recommendations regarding the act.

IV. RECOMMENDATIONS

1. The Director of the National Cancer Institute and of the National Institutes of Health should be career appointees. Politicization of National Cancer Institute and NIH should cease.

Senator KENNEDY. You would be opposed to a Presidential appointment?

Dr. STEINFELD. I think if the Director of NIH and of National Cancer Institute were within the career system and were to make a decision which did not appeal to his political superiors, those scientists would still have the protection of either the Civil Service Commission or the Commission Corps system, and I think in many instances this would be extremely valuable. The people who do not have this career protection are not quite as free to do what their scientific judgment directs. So I think career appointments would be an advantage.

2. The number of cancer centers to be designated in the next 3 years should be increased to 30. A definite number is desirable and can be reviewed again in 3 years.

3. A portion of the National Cancer Institute budget should be reserved for training the research scientists and clinicians of tomorrow.

Senator KENNEDY. You are satisfied there is scientific expertise and manpower to provide the kind of support that Mr. Schmidt mentioned earlier to 30 centers of some excellence?

Dr. STEINFELD. I think they could be developed and I believe within the next 3 years, this should be our goal.

I think 15 does not blanket the country the way the Congress indicated, and I do think naming centers is an excellent idea because it leads to the form of cooperation that both Dr. Frei and Dr. Durant described.

I think naming them is a good idea, and having the number 30 would probably reach the goal Congress had in mind for the Nation.

Senator KENNEDY. We do not set it precisely, but we have indicated that this figure is approximately 30 to 35.

Obviously, I think we would be guided by how those resources could best be utilized.

I think the thrust of our amendment on this is to achieve what you have outlined here, and I am glad you support it.

Dr. STEINFELD. I certainly support that amendment, and think it is an excellent one.

We need not only research scientists but clinicians expert in the diagnosis and treatment of cancer as well as in cancer control. Funds should be provided to institutions rather than individuals, so as to stabilize institutional funding in a period of rapidly changing academic and governmental responsibilities.

I think a very real problem has developed over the past few years in which training funds go to the individual rather than to the institution.

4. The act should provide a specific number of personnel—scientific, medical, managerial, and supportive—to carry out the purposes of the act. If the cancer program is a national priority research and medical program, the Office of Management and Budget should provide personnel as well as fiscal resources to carry out the Congress' and the President's decisions.

5. Both grants and contracts should be reviewed by outside peer groups. The mechanism for choosing peer review groups should be changed to provide a mechanism for input from the Congress, the American Association for Cancer Research, the American Society for Clinical Oncology, and the National Academy of Sciences.

6. The contract mechanism should be restricted to use for the purchase of products or services. It should be used to purchase research only after such research programs are recommended by senior outside scientific review bodies.

7. The Congress should take some responsibility for implementation, or at least continuing oversight of the cancer program; and for review of the choice of Cancer Panel, Board, and scientific review body membership within the National Cancer Institute.

This last may be the most controversial, but also the most significant of the recommendations. It is common knowledge among the scientific communities that the Directors of the various Institutes at the National Institutes of Health seldom have their choices for National Advisory Council members approved.

I believe recommendations for the Cancer Board should come from a group composed of the Director and Deputy Director of the National Cancer Insttute and a representative from each of the American Association for Cancer Research, the American Society of Clinical Oncology, and the National Academy of Sciences.

The nominations should be nonpolitical, and should be submitted for informational purposes to the chairman and minority leader of both the Senate and House committees responsible for oversight of the cancer program at the same time that they are submitted to the President of the United States.

The same elected Members of Congress should receive the Cancer Panel's monthly report and should meet at least quarterly with the Cancer Panel and the Director of the National Cancer Institute to review programs and problems.

While in the past many of the scientific groups have been chosen entirely intramurally by NIH staff, the magnitude and the scope of the national cancer program require that the members of all senior scientific committees be selected in such a way as to insure scientific objectivity and immunity from political surveillance.

Having greater participation of the scientific community in the choice of advisory groups and having bipartisan congressional overview of the program, should make the program more truly an initiative of both the legislative and executive branches of Government.

In conclusion, the Cancer Act of 1971, endorsed overwhelmingly by both the legislative and executive branches of Government, was not only a reflection of our Nation's desire to conquer cancer but an expression of our dissatisfaction with the current priority for cancer research and dissatisfaction with the current administrative and management mechanisms available to do the job.

Work, both scientific and administrative, by Dr. Rauscher and his senior staff at the National Cancer Institute has started the program successfully on the route charted by the Congress.

My purpose today is to suggest mechanisms, exclusive of dollars, which can help the National Cancer Institute, by providing for greater involvement of the Congress and the biomedical community, in achieving our goal of conquering cancer.

Senator KENNEDY. Very good, very helpful suggestions and recommendations.

We would like to stay in touch with you on a number of these proposals.

I gather that you gentlemen agree without qualification about the provision of our legislation that permits the expansion in the number of cancer centers, and feel that is a desirable feature and one that ought to be supported.

Do I understand the thrust of your testimony to include that general support?

Dr. FREI. Yes.

Senator KENNEDY. This statement will be useful both to me and to the other members of the subcommittee in the course of our deliberations.

Dr. FREI. I think the answer is emphatically yes, with the emphasis on the fact that the 15 or 18 Cancer Centers, comprehensive Cancer Centers, that now have been designated are in varying stages of development.

Some are very mature and some relatively new. I think the additional Cancer Centers, I guess it is the proposal to be added as they are over the next 3 years could take advantage of the experience not only of the old Cancer Institutes, as Dr. Clark pointed out, but also of some of the problems and opportunities of the relatively recent ones.

Senator KENNEDY. Because you have Federal funds, have you felt the cold hand of Federal takeover in any of the centers you have been associated with? Has this caused you undue concern?

Dr. **Steinfeld.** I certainly have not. We are the newest center, but it would seem to me in working with the National Cancer Institute staff that they are looking for help, looking for advice, and we certainly have had considerable help from National Cancer Institute staff, and nothing that would be inimical to the development of the Cancer Center.

Dr. **Frei.** As Mr. Schmidt emphasized, none of the comprehensive centers are totally dependent financially on the Federal Government.

All of them have a varying base of private or State support, which assures some degree of independence.

I think the comments that Dr. Steinfeld made with respect to increasing scientific input, and decreasing political input into the selection of scientific advisors for the national cancer center program, and key administrators of the national cancer center program is also important in that context.

Dr. **Durant.** I would like to reiterate the testimony of the other witnesses.

I think the number of Centers needs to increase, otherwise we are likely to have two classes of citizens, those with ready access to the availability of the Centers, and those who do not.

I believe the importance of review in reviewing the programs of the Centers is essential in order to keep them scientifically excellent.

I do not consider that political interference, but scientific guidance.

We have not felt the cold hand of the Feds on our programs.

I feel that we have been tremendously helped by the National Cancer Act, and by the community of scientists around the nation who have supported this legislation.

Senator **Kennedy.** I want to thank you for your testimony.

One of the goals of the legislation is to obtain firsthand information from those who have been out in the field. I think I share with all of those who support the changes in the legislation, a very strong belief that this flexibility will be used by the Institute to support excellence and availability of information to the greatest number of American citizens.

I think we are completely aligned in that understanding, and I think the clarifications that Mr. Schmidt made about ongoing commitments and limitations in this area are important and should be established in the record as well.

I want to thank you gentlemen very much. We may be submitting some additional questions to you in the course of the legislative process that lies ahead.

Thank you again.

At this time I would like to welcome Dr. John Cooper, president of the Association of American Medical Colleges, Washington, D.C.

We are delighted to have you here.

STATEMENT OF DR. JOHN COOPER, PRESIDENT, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, WASHINGTON, D.C.

Dr. **Cooper.** Thank you very much, Senator Kennedy.

Senator **Kennedy.** I apologize for our time problem. We have two votes back to back by 2:30, and the full committee goes into executive session at 3 o'clock, so we will have a bit more time to hear from the final witnesses.

Dr. **Cooper.** May I say that we have a fairly extensive statement, which I think describes fairly completely our views on the legislation you have introduced, and some other recommendations which we are making.

As you know, we did express our views and recommendations on the establishment of a separate Cancer Institute when the National Cancer Act was considered in 1971, and our statements on that issue are already on record.

After the extensive debate in Congress the National Cancer Act was passed, and the Director of the National Cancer Institute was placed in a special position within the National Institutes of Health. We expressed our concern at that time about the possible adverse effects of the singling out of one institute for special status and authority, and what effect that would have on the other research institutes.

Some of these adverse effects have come to pass. For example, during the past few years the budget and staffing requests by the administration for the other institutes have decreased dramatically, while the budget requests for the Cancer Institute have increased sharply. The full meaning of the situation is not clear, but the association nevertheless is still deeply concerned about the implications because of its concern with the welfare of all the NIH research institutes.

In order for the cancer program to be effective there must be effective research programs in all of the other disciplines. If these activities are not adequately staffed and funded, the effectiveness of the cancer program—as well as our conquests of other diseases—is going to be impaired.

In contrast to what Secretary Weinberger said this morning, the administration has not been in the position of merely preventing what he called the "Japanese rate of increase" of funding for the Institutes. In fact, the administration has requested less money in fiscal 1972 through fiscal 1974 than it did in the budget of 1971.

The association wants to point out that the administration has attempted to prevent the growth of these Institutes, at least as evidenced in the budget requests it has sent to the Congress. Fortunately, the Congress appropriated more funds for these years. The administration impounded these funds, and continued to limit spending to the rate originally requested in its budget. During this past year, the association and other organizations were successful in prosecuting a lawsuit for the release of that money—at least we think it has been released.

I do want to point out that there has been a cutback in all of the other Institutes, and there has been a substantial reduction in the staffing of those Institutes. Mr. Schmidt and others have raised concern with regard to the ability of the staff of the Institutes to carry out the intent of the legislation, and to protect the interests of the U.S. Government. There have been substantial cutbacks in the number of positions available, and there is a real question about whether there is enough manpower in these Institutes to really effectively manage the programs. This is one area that the association hopes the subcommittee will look into, along with the particular staffing needs of the National Cancer Institute.

The association has made some recommendations in the testimony submitted for the record with regard to changes that might be made in the present national cancer program which would strengthen and improve it. I would like to summarize these points.

First, the association agrees with the other witnesses and recommends that all research contracts have scientific peer review, not only at the time of the awards, but also when requests for contract proposals go out, so that there will be scientific input as to their nature and scope.

The association thinks the National Cancer Advisory Board should have this responsibility. The Board, of course, could assign the more routine kinds of contract authorizations, such as the procurement of special drugs, and other routine contracts to the Director of the National Cancer Institute. The Board should, however, have the responsibility and authority for assuring peer review of the proposals that go out, and assessing the responses to the RFP's.

Second, the association believes that provisions of the National Cancer Act should mandate utilization of the present NIH research training programs in the struggle against cancer. Where appropriate, language should be added to mandate the use and continuation of training stipends, fellowships, institutional support, and career development awards.

Third, the association suggests that the ceiling on the number of centers should be removed from the bill. This issue has been discussed adequately during today's hearings, so I will not go into further detail.

Fourth, the association recommends that the act's construction authority be amended to specifically include authority for basic research labs and hazard control. There has been a great deal of confusion as to whether there is authority to construct these kinds of facilities.

The association would like to make three additional recommendations of provisions that we hope would be included in this bill. One recommendation is that the statutory authority for the Secretary of HEW to enter into contracts, be included and extended in the National Cancer Act. This authority, which expires on June 30, is currently found in section 301(h) of the Public Health Service Act.

Second, the association recommends that the provisions of sections 601 of Public Law 91–296 be added to the National Cancer Act. This provision, which expires on June 30, has been very useful to organizations which have tried to prevent impoundment of funds by the administration. We would hope that language similar to section 601 would be continued, and that it would be attached to this particular bill, in which the administration has considerable interest.

Finally, the association also recommends a statutory term for the Director of the NIH. He or she would be a Presidential appointee, subject to Senate confirmation. The association believes that a 7-year term is suitable for the directorship of NIH. It would help to remove this position from the political arena and would help regain the recognition that this office is probably the top scientific job in the United States. The association strongly recommends that this provision be included.

I think, sir, that this summarizes the recommendations that we have with regard to the act, and if there are any questions now, or that you want to submit to me, I would be happy to try to answer.

Senator KENNEDY. I think that is a very helpful and useful statement.

Your support of the increased numbers of research centers is quite welcome. We reiterate our responsibility to continue adequate funding of the various Institutes.

Dr. COOPER. And the staffing is a very serious problem in other institutes. Mr. Chairman, they have had great losses in the number of staff, and with the current level of the program activity there is a real question whether they can really carry out their responsibilities.

Senator KENNEDY. Your suggestion is some form of oversight hearing or function by the committee to deal with these problems.

A number of the specific observations you have made have been very helpful. We are going to work out some of the details and the legislative language.

We probably expect as much from Mr. Goldman.

Dr. COOPER. We have known Mr. Goldman for some time. We would urge that section 601 be continued in this bill.

Senator KENNEDY. That is very helpful, too.

Doctor COOPER. Section 601 is important, not only to the cancer program, but to all programs. The administration is interested in this bill, but it may not be interested in section 601.

Senator KENNEDY. That is music to our ears.

Thank you very much. Your full statement will appear in the record at this point.

[The prepared statement of Dr. Cooper follows:]

ASSOCIATION OF AMERICAN MEDICAL COLLEGES
SUITE 200, ONE DUPONT CIRCLE, N.W., WASHINGTON, D.C. 20036

STATEMENT BY THE ASSOCIATION OF AMERICAN MEDICAL COLLEGES ON LEGISLATION TO CONTINUE THE NATIONAL ATTACK AGAINST CANCER*

Mr. Chairman and Members of the Subcommittee:

The Association of American Medical Colleges welcomes this opportunity to present its views on the extension of the National Cancer Act of 1971.

The Association is the national organization of institutions engaged in the formal education of M.D.s either at the undergraduate or graduate levels. It is comprised of all of the 114 medical schools in operation in the United States, 400 of the major teaching hospitals, and 51 academic societies which encompass the teaching and research faculties of academic health centers. The Association was formed in 1876 and has been an important force in the evolution of medical education over the intervening years.

The constituent institutions and organizations of the Association are concerned not only with undergraduate medical education but also with the training of research scientists and the medical specialists and clinicians essential to bringing the advances of present day medicine to the health care of the American people. Within the laboratories and clinical facilities of these institutions is conducted a substantial portion of the total medical and health related research effort of the nation. Thus, the Association and its membership have a deep and direct involvement in the issues before the subcommittee today.

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* A statement presented by John A. D. Cooper, M.D., President of the Association of American Medical Colleges, before the Health Subcommitttee of the Senate Committee on Labor and Public Welfare, January 30, 1974.

The Association presented its views and recommendations regarding the establishment of a separate, independent cancer institute when the National Cancer Act was under consideration in 1971, and its previous statements on this issue are on record. After extensive debate and consideration of the issues involved in launching an independently targeted, national attack to conquer cancer, the Congress in its wisdom provided specific statutory authorities for the National Cancer Institute and its Director which were not shared by the other components of the National Institutes of Health.

The Association expressed its concern about the possible adverse impact that the singling out of one institute for special status and authority would have upon the other institutes and divisions at the National Institutes of Health. During the past few years, budget requests and staff positions for the National Cancer Institute have increased dramatically, while the total budget request and staffing for the remaining research components of the NIH have been reduced. The full meaning of this situation is not clear, but the Association is nonetheless deeply concerned about its implications because of the Association's concern for the welfare of all of the NIH research programs. In order for the cancer program to be effective, it must have input from the other bioscience disciplines. If these activities are not adequately staffed and funded, the effectiveness of the cancer program must necessarily be impaired.

The Association and its membership are in agreement that extensive biomedical research efforts are essential if medical science is to discover the causes and to develop cures and treatment for this complex of killer diseases. The Association believes that several provisions could be added to the current cancer authority which would further strengthen the attack against cancer, and that additional provisions could be included in other sections of the Public Health Service Act which would help assure that collateral research efforts in the other institutes are not impaired because of continual shifts in policy and management or because of reductions in funding and personnel.

In order to improve the national cancer program, the Association recommends that:

1. the scientific review provisions of the National Cancer Act be amended to add external peer review of research contracts to the present authority for peer review for research grants and programs, and to allow the National Cancer Advisory Board to delegate to the Director of the National Cancer Institute final authority over routine procurement contracts;

2. the research training provisions of the National Cancer Act be amended to mandate the utilization of present research training programs in the struggle against cancer;

3. authorizations for cancer research and control programs be extended for three years;

4. the present 15-center ceiling on the number of cancer research and demonstration centers be removed; and

5. the NCI Director's construction authority be expanded to include authority for basic research laboratories and biohazard control.

In addition, the Association recommends the following because of its concern with the overall integrity of the federal biomedical research effort:

1. that the general authority of the Secretary to enter into research congracts, which is to expire June 30, be extended indefinitely;

2. that general language requiring the timely obligation and expenditure of funds appropriated for cancer research and for related purposes be added to the subcommittee's legislation; and

3. that present language providing for Presidential appointment of the NIH Director be modified to require Senate confirmation of the nomination and to specify a fixed term of office for the NIH director.

Each of these recommendations deserves some more detailed comment.

Peer Review of Contracts

The use of non-federal scientists to review grant applications for biomedical research projects to be funded by the federal government has assured a broad, non-federal voice in the formation and implementation of national policy. The peer review system which has been developed and utilized for NIH grants has assured a rigorous assessment of the scientific merits of research projects for which NIH grant support is being sought. This process of scientific appraisal carried out by disinterested and expert scientists has resulted in the use of public funds only for the support of biomedical research which has met the highest standards of excellence.

The Association believes that, because of the substantial amount of public funds that are becoming available for the award of cancer research contracts, it is imperative that these contracts also be subject to scientific scrutiny -- at all stages of the contract process, including Requests for Proposals (RFPs) and at the final award. The collective judgments of assembled outside experts will help to assure that contract-related decisions are based on scientific merit. The process of peer review has been recognized as an effective mechanism in assuring maximum scientific returns for public investments in research grants. A similar maximum return should also be sought for similar investments in research contracts.

In another contract-related issue, the Association recommends that the present requirement of National Cancer Advisory Board review of all contracts be modified to exclude such routine matters as normal procurement contracts, of laboratory supplies, for example. Such authority could be delegated by the Board to the NCI Director. The intent of the recommendation is to free the Board from the burden of routine administrative review of such recurring contract actions and thus to allow the Board additional time for consideration of more important, large research and treatment awards. Language similar in intent was provided in 1971 for swift consideration of routine research grant applications, and the Association regards that as a useful precedent for similar modification now of the contract review mechanism.

Research Training

The research training programs of the National Institutes of Health have provided specially trained research manpower in critically short specialized areas of research needs, such as virology, which are becoming of increasing importance in the continuing quest for the causes and cures of cancer. These programs have assured the constant flow into research fields of individuals with advanced training in the biomedical sciences who are most likely to produce the new ideas and pursue the new and unknown paths into the cancer complex.

The continuing need for these young researchers and the programs which train them has been recognized in legislation currently pending in the Congress, HR 7724, which would assure that research training is to be continued. The amendment the Association is recommending is designed to insure that the National Cancer Institute will be able to utilize the research training authority which the pending research training legislation provides. The amendment mandates the availability of research training authority for the NCI rather than providing -- as the present law does -- only discretionary availability of such authority.

The Association recommends that Section 407(b)(7) be amended to read as follows:

> "(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professions personnel, for participation in clinical and basic research and treatment programs relating to cancer, including the use of predoctoral and postdoctoral training grants (including both stipends and institutional support), fellowships, and career awards."

Authorizations

The Association recommends further substantial authorization levels for a broadly based balanced national cancer effort.

Perhaps more important than the detailed comments and suggestions which the Association has already advanced is its concern about the imbalance in the overall NIH programs which has resulted since enactment of the National Cancer Act. This runs the risk of losses in research in important areas of medicine. For example, constriction of work in molecular biology may hamper fundamental work necessary for the understanding of the cancerous process. Therefore, the authorization levels for the national cancer program must be considered in close relationship to the projected support levels for the other NIH research institutes and divisions.

The Association is concerned about what happens when one takes the total NIH research appropriations over the last five years, and extrapolates the next three years. If one assumes that the NCI authorizations are appropriated in full, then the expenditures for the NCI would increase about 12 percent per year, but all other activities would be either unchanged or, in some instances, be forced to decline.

Cancer Centers

The Association's recommendation to remove the present 15-center ceiling on the number of national cancer research and demonstration centers is designed to avoid possible delays in translating laboratory findings into the care and treatment of cancer patients. If there is to be maximum public access to cancer care and to be maximum professional access to cancer research, the development of a national network of cancer centers must not be hampered by rigid legislative barriers. In order to best serve the needs of the population, the establishment of additional comprehensive cancer centers may be essential in speeding the nation towards its dual objectives of making comprehensive cancer treatment available to all Americans and intensifying research efforts aimed at understanding and conquering this dread disease.

Construction Authority

The Association's fifth recommendation would clarify the scope of the Act's construction authority.

Section 410(2) of the Act provides authority for the Director of the National Cancer Institute to construct cancer centers, laboratories, and research facilities. This language does not specify that the construction authority also includes authority for basic research laboratories and biohazard control facilities. The specific inclusion of these items in Section 410 would remove any doubt over the scope of the construction authority. The Association therefore recommends that Section 410 be amended accordingly.

The Association's more general recommendations also require some additional comment and discussion.

General Contract Research Authority

The general contract authority for biomedical research and investigation is contained in Section 301(h) of the Public Health Service Act. This authorization will expire on June 30, the same day as expiration of current cancer authorizations. The Association believes that the present legislation would be a most appropriate vehicle for the extension of this important contract authority, which provides authority for all the research institutes and divisions of the NIH, not solely for the Cancer Institute.

The Association recommends the following language:

> "Section 301(h) of the Public Health Service Act is amended to read as follows:
>
> (h) Enter into contracts, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and ".

Availability of Funds

In order to insure that funds appropriated by Congress for cancer and other related health activities will be made available for expenditure and obligation, the Association recommends that the following language be included in the pending legislation:

> "Notwithstanding any other provision of law, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88-164, as amended) shall be made available for obligation and expenditure no later than the end of such fiscal year."

Similar language is presently contained in Section 601 of PL 91-296, and is to expire on June 30, the same day that the current cancer authorities expire. This language has been used frequently in recent months to secure the availability of funds appropriated by Congress but not released for obligation and expenditure, including funds for cancer research. This legislation -- because it deals with cancer research -- is a most appropriate vehicle for the continuation of this Congressional directive that appropriated health funds, and the priorities which they reflect, are not to be tampered with. The importance of this language to the federal investment in health cannot be overemphasized. The Association therefore urges the subcommittee to take this opportunity to extend this crucial statutory protection.

Statutory Term for NIH Director

The Association believes that the establishment of a statutory term of office for the Director of the National Institutes of Health is essential to the continuity of leadership in biomedical research. Federal support of this research is a nonpartisan activity, and its leadership should be equally nonpartisan. It is imperative that the director of the federal biomedical research effort be a highly qualified individual, with a background and training in biomedical research and administration, who is selected without regard to political affiliation. The administration of the research effort will be best served by the nonpolitical transition from one director to the next, with careful Congressional review of the scientific qualifications of proposed directors.

In order to meet these goals, the Association strongly urges the subcommittee to provide a statutory term of seven years for the Director of the NIH and to make appointment subject to Senate confirmation.

The Association therefore recommends that Section 454 of the Public Health Service Act be amended to read as follows:

> "(a) The Director of the National Institutes of Health shall be appointed by the President with the advice and consent of the Senate, to serve for a term of seven years; he or she shall be eligible for reappointment. Before any person is appointed Director, the President shall afford the National Academy of Sciences an opportunity to make recommendations to the President with respect to such appointment.
>
> (b) The Director of the National Cancer Institute shall be appointed by the President. Except as provided in section 407(b)(9), the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health."

Additional Association Comment

The Association has repeatedly stressed that the basic causes and nature of the cancerous process are unknown. The nature of cancer is deeply embedded in the most elemental life processes and is an obscure and complex part of the life cycle. Major further progress in the conquest of cancer is, in the final analysis, dependent upon greater understanding of the intricate working of the basic life cell and its responses to both internal and external forces.

It is important to realize that the new leads which seem to offer promise for advances in cancer have emerged in scientific fields which at the same time were far removed from the mainstream of scientific effort in cancer. These new efforts are derived from, and are dependent upon, scientific achievements in the fields of virology, immunology, genetics, and cell biology. No one can predict with certainty the fields from which will come the findings that will provide further insights into the nature of cancer. All bioscientists, however, will agree that real progress in understanding cancer can only come through greater understanding of the fundamental life processes of which it is a part.

The national attack upon cancer cannot be fought exclusively with programs sponsored by the National Cancer Institute. Cancer research is also dependent, in part, upon advances in the various biosciences which are sponsored by the other institutes at the NIH -- particularly the general basic research programs of the National Institute of General Medical Sciences.

The Administration's failure to perceive the importance of the other NIH disciplines in the national attack against cancer is evident not only in the lowered budgets of these institutes, but also in the distribution of staff positions within the NIH. Over the past several years, the NIH as a whole has suffered an outright loss of approximately 600 permanent full-time staff positions. In addition, over 350 more positions have been transferred from the other institutes of the NIH to the NCI and the National Heart and Lung Institute. The net result has been a loss of approximately 950 staff positions within the other institutes of the NIH -- a loss which has seriously compromised the ability of the NIH staff to administer the programs under its direction.

The impact of the Administration's decisions on the morale and effectiveness of NIH administrators is clear. The national biomedical research program established by the Congress has been stymied by administrative fiat. The repeated attempts to terminate research training programs, abolish peer review, and reorganize staffing patterns indicate all too clearly that biomedical research and the nation's health do not hold a high priority within this Administration. Such an attitude cannot be allowed to stand unchallenged.

Senator KENNEDY. Our final witness is the American Cancer Society, represented by Dr. A. Hamblin Letton.

He is chairman of the Society's Legislative Committee and its national chairman.

We welcome you to the committee this morning, and apologize for the late hour.

STATEMENT OF A. HAMBLIN LETTON, M.D., CHAIRMAN, LEGISLATIVE COMMITTEE, AND PAST PRESIDENT, AMERICAN CANCER SOCIETY

Dr. LETTON. Thank you, Mr. Chairman.

I am Dr. A. Hamblin Letton of Atlanta, Ga. I am in the private practice of surgery.

I am the former chief-of-staff of the Georgia Baptist Hospital, the largest private hospital in Georgia, and am president of the Atlanta Medical Center.

I am the chairman of the Patient Care and Research Committee for Cancer of the American College of Surgeons, and am a member of the Professional Education Committee of the International Union Against Cancer.

I am a volunteer of the American Cancer Society and have held the chairmanship of almost every important committee of the American Cancer Society, as well as being national president in 1972.

I am here today to present to you the views of the American Cancer Society on the renewal of the Cancer Act legislation.

The American Cancer Society has been very pleased with the progress of the National Cancer Institute under the leadership of Dr. Frank Rauscher and the President's Cancer Panel, operating within Public Law 92–218, the National Cancer Act of 1971.

We, without hesitation, endorse and encourage the passing of the proposed amendments to Public Law 92–218, which we believe will make the national cancer program more effective. We strongly support the increase in funding authorizations for the next 2 years, both in the budget of the National Cancer Institute and the cancer control program.

We strongly support the special authorities and initiatives the National Cancer Act gives to the National Cancer Institute, including direct budget submission to the President with reasonable opportunity for comment, but without change by the Secretary of HEW, and the Director of the National Institutes of Health. This has been one of the healthiest changes in the history of the National Cancer Institute. We would strongly oppose any action that would return the control of the National Cancer Institute to the National Institutes of Health.

We support the increase in the number of experts or consultants as defined in section 401(1). We urge the deletion of the word "fifteen" in section 408(A).

We support the increase in funding authorization as has been suggested by the National Cancer Advisory Board; that is, for the cancer control program $50 million for fiscal 1975, $65 million for fiscal 1976, and $85 million for fiscal year 1977.

And for the National Cancer Institute budget, $750 million for 1975, $830 million for 1976, and $985 million for 1977.

This, of course, is far short of the $1 billion which was contemplated for fiscal 1976 by the Panel of Consultants to the U.S. Senate for the Conquest of Cancer. It is also a far cry from NASA's budget of $3 billion in a year when NASA is supposedly curtailing its activities. NASA has spent $54 billion so far.

The 1971 law is not specific concerning the amount of overhead in the limitation of $35,000 in grants in section 410(b) (1) and (2). We would urge that the law be changed to read so that the $35,000 includes only direct costs.

The reason here revolves around the uncertainty of the costs, which vary widely from one institution to another, and the size of the indirect costs, which often leave a sum too small for practical use.

Indirect costs are not controlled by the National Cancer Institute. Rather, they are negotiated by the institution and higher levels of Government and then applied to any grants from the Government to the individual institution. So far as the National Cancer Institute is concerned, there is no opportunity for either waste or economizing with regard to the negotiated indirect cost rate applicable to any given grant.

For instance, institutions of higher education operated last year at indirect costs of 64 percent, 52 percent, and 59 percent, among other rates applicable in that geographic area. A noneducational institution in the same area received grants on which a 53-percent indirect cost rate applied.

Scientists reviewing $35,000-maximum projects face uncertainty, in these circumstances, of the proposal's feasibility.

The authority for construction is not specific in the 1971 law. This should be more specific, applying to new building as well as that which is specified in the 1971 law: ". . . To acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations . . ." in section 410(2). This has been interpreted to bar new construction of basic cancer research facilities.

However, new construction is explicitly needed. One important use for this building is the control of biohazards. The virus work is one of the most important new frontiers. It requires particular care for isolation, atmospheric control, positive waste disposal, cleansing, and personnel traffic.

Occupationally acquired cancer among researchers is a distinct possibility. The consequences of laboratory exposure to experimental carcinogens may not be demonstrated for many years. Prevention now is imperative to reduce hazards to a minimum.

The 1971 cancer law authorized 15 new clinical centers. As of today we have not met that goal, though we expect that the National Cancer Institute will be able to designate the full number by June 30 of this year when the present law expires.

The Institute has designated three world-recognized comprehensive cancer centers as fitting the law's intent, but only nine "new" centers have been designated as such since the law went into effect.

I am submitting for the record a list of these centers. We need more.

The outreach of designated centers simply cannot be extensive enough to serve the whole country. Such major cities as San Francisco, Atlanta, Kansas City, Chicago, New Orleans, Memphis, Pittsburgh, and many others are without comprehensive centers.

This means unavoidable delays in putting into the mainstream of medical advances those new discoveries, new treatments, that emanate from the conquest of cancer program. And it means that patients needing highly specialized treatment available only at such centers must often travel hundreds of miles from their families for that care. We have enclosed a map designating the locations of the approved centers.

The 15-center limit in the law should be removed.

Personally, I want to add that all the American Cancer Society volunteers are grateful to you and to this committee for your consistent and dedicated support of the Cancer Act and its program. We are confident that the program has advanced our fight against cancer in the last few years.

The effects of such a program are not always easy to see unless one is engaged in patient care, but we who are in the practice of medicine are confident that the ideas and improvements brought forth are going to prove very valuable as we view the cure rate of cancer in the years to come. We must push this fight with vigor through renewal of the cancer law.

Historically, the American Cancer Society has been extremely interested in the work of the National Cancer Institute. The National Cancer Institute was established in 1937 by the Congress, largely as a result of interest and efforts of the American Cancer Society.

Through the years the Institute and the Society have cooperated. However, the independence of the National Cancer Institute, as authorized by the National Cancer Act of 1971, has brought this into a never-before-realized cooperative partnership with the American Cancer Society.

This legislation has produced a unique form of Federal-private cooperation. In the area of cancer control, the American Cancer Society and the National Cancer Institute are actively sharing funding, planning, and administration of several cancer control projects as part of the national cancer program.

This represents a first in the Government-private sector relationship, the benefactors of which are the American people, both in the service rendered, and in the savings to them because of the volunteers of the American Cancer Society.

Were the Government required to pay for all of these man-hours of labor, the cost would be astronomical. The American Cancer Society with its over 2.5 million volunteers, including the professional expertise of over 50,000 doctors, has provided this involvement without cost to these projects.

I would like to describe one example of this cooperation, and I refer to the joint American Cancer Society/National Cancer Institute breast cancer detection demonstration program.

The object of these project units is to demonstrate to the practitioners and to the public the effectiveness of early detection of breast cancer, to better define the high-risk groups and to develop better screening methods—see attached list of leaders and locations of project units.

Breast cancer mortality rates have remained constant at about 25 per 100,000 for the last 40 years. The incidence, however, has increased from 65 to 72 per 100,000. Therefore, we are curing more women.

We lost 8.5 times as many women during the years of the Vietnam war than we lost servicemen in Vietnam. In a 10-year period the number of women in the United States having breast cancer would outnumber the population of Boston, Mass., man, woman, and child.

The National Cancer Institute and the American Cancer Society have established 27 projects throughout the United States in the breast cancer detection program. The response of the public and the profession has been overwhelming.

Each project will examine 5,000 women each year. In my own project we are now booked up into next fall with women clamoring for this examination.

This is a wonderful example of the public's realization that somebody cares about them and is doing something for them—it is wonderful public relations for the National Cancer Institute, for the Congress, and for the President.

We do not yet have the figures from all of the projects, but in my own, in Atlanta, in the first 1,300 women we screened, we found 8 cancers, only 1 of which was large enough to be felt clinically and only 1 of which had any evidence of spread.

The results of this cooperative effort will result in a highly significant reduction in the death rate from cancer of the breast, which is the number one killer of women in the United States.

Mr. Chairman, we have made great progress in the first 3 years under the National Cancer Act. The Congress is dedicated, the President is dedicated, the American Cancer Society remains dedicated as a committed partner. This is an unbeatable team.

We, therefore, urge the renewal of this legislation for the sake of the survival of the untold thousands of men, women, and children, the future victims of cancer. May this act preserve them, that they may enjoy this great country of ours in the years to come.

Mr. Chairman, this is a great country, yet, there are many things we could do better, but it is the greatest country on this earth.

Last year I met with health educators behind the Iron Curtain in Krakow, Poland. In discussing cancer education among medical students, Dr. Glazer, who is professor of surgery at Leipzig University in East Germany, said that they had difficulty in teaching cancer education, because the government demanded that 25 percent of the time of the curriculum in medical school be dedicated to the teaching of Leninism and Marxism.

We are fortunate in the United States that we have been able to keep politics and medicine separate. The cooperative efforts of the Government and the private sector, as is demonstrated by the National Cancer Institute/American Cancer Society partnership can only survive in such a society free of politics, free to answer the needs of our people: the need to give and the need to receive.

Thank you.

Senator **Kennedy**. Thank you very much. That is a splendid statement. We are interested in your comments about the budget and personnel in the independent centers, and these are very helpful comments for us to have.

You are in support of the program?

Dr. **Letton**. It is in accord with the bill as I see you have suggested.

Senator **Kennedy**. Is the figure of 25 per 100,000 or more?

Dr. **Letton**. Twenty-five per 100,000 is the number of deaths of cancer of the breast among women for the last 40 years.

However, the incidence has risen, and these are the figures, from 55 per 100,000 to 72 per 100,000 is the incidence of cancer of the breast. We are curing more women, but our mortality rate has remained at this 25 per 100,000.

Senator **Kennedy**. Is that because people are living longer?

Dr. **Letton**. This is one of the reasons that we have people in the older age group coming in now.

There seems to be an increase in the number of cancers of the breast.

Senator **Kennedy**. Why is that?

Dr. **Letton**. We do not know at the present moment. I wish we did, Mr. Chairman.

Senator **Kennedy**. We want to thank you very much.

At this point I order printed the statements of those who could not attend and other pertinent material submitted for the record.

AMERICAN CANCER SOCIETY/NATIONAL CANCER INSTITUTE

Breast Cancer Demonstration Projects

East	Project Director	Date Awarde
Albert Einstein Medical Cntr. Temple U. Hospital Philadelphia, Pa.	Harold J. Isard, M.D. Marc S. Lapayowker, M.D., Associate	2 Jan 74
College of Medicine and Dentistry of New Jersey Newark, New Jersey	Benjamin Rush, M.D.	28 June 73
Guttman Institute New York, New York	Philip Strax, M.D.	18 April 73
Rhode Island Hospital Providence, Rhode Island	Herbert P. Constantine, M.D.	t.b.r. #
U. of Pittsburgh School of Med.	Bernard Fisher, M.D.	u.n. *
Wilmington Med. Cntr.	Leslie W. Whitney, M.D.	1 Jan 74
South		
Duke University Med. Cntr. Durham, N.C.	Richard G. Lester, M.D.	u.n.
Emory U.--Georgia Baptist Hosp. Atlanta, Georgia	R. Waldo Powell, M.D. A. Hamblin Letton, M.D.	9 May 73
Georgetown U. Med. School Washington, D.C.	Margaret Abernathy, M.D.	u.n.
St. Vincent's Med. Cntr. Jacksonville, Florida	Marvin A. McClow, M.D.	6 June 73
U. of Louisville School of Med.	Condict Moore, M.D.	17 April 73
Vanderbilt U. School of Med. Nashville, Tennessee	John R. Amberg, M.D.	t.b.r.
Midwest		
Ellis Fischel State Cancer Hosp. Columbia, Missouri	William L. Donegan, M.D.	t.b.r.
Iowa Lutheran Hospital Des Moines, Iowa	Donald C. Young, M.D.	u.n.
Medical College of Wisconsin Milwaukee, Wisconsin	James E. Youker, M.D.	18 June 73
U. of Cincinnati Med. Cntr.	Myron Moskowitz, M.D.	28 June 73
U. of Kansas Med. Cntr. Kansas City, Kansas	Loren J. Humphrey, M.D.	19 June 73
U. of Michigan Med. Cntr. Ann Arbor, Michigan	Walter M. Whitehouse, M.D.	u.n.

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*u. n. --under negotiation

#t. b. r. --to be reviewed Feb. 1974 by ACS, then by NCI; to receive award in FY 1974 if NCI money is available.

West

Good Samaritan Hospital & Med. Cntr. Portland, Oregon	Morton J. Goodman, M.D.	t.b.r.
Mountain States Tumor Institute Boise, Idaho	Alfred M. Popma, M.D.	25 June 7
Pacific Health Rsch. Institute Honolulu, Hawaii	Fred I. Gilbert, Jr., M.D.	19 Dec 73
St. Joseph's Hospital Houston, Texas	Duncan L. Moore, M.D.	t.b.r.
Samuel Merritt Hospital Oakland, California	Robert Schweitzer, M.D.	u.n.
U. of Arizona Med. Cntr. Tuscon, Arizona	Arthur J. Present, M.D.	t.b.r.
U. of Oklahoma Health Sciences Cntr. Oklahoma City, Oklahoma	JoAnn Haberman, M.D.	18 June 73
U. of Southern California Los Angeles, California	Lewis W. Guiss, M.D.	t.b.r.
Virginia Mason Rsch. Cntr. Seattle, Washington	Thomas Carlile, M.D.	14 June 73
Statistical Center University City Science Center Philadelphia, Pa.	W.C. Ellenbogen	29 June 73

Awarded to 16 Jan 74

ACS Funds	$ 999,304
NCI Funds	1,998,608
(Statistical Cntr. NCI Funds	489,068)
Total	$3,486,980

Under Negotiation & Review

ACS Funds	$1,300,000
NCI Funds	2,600,000
Total	$3,900,000

National Cancer Institute

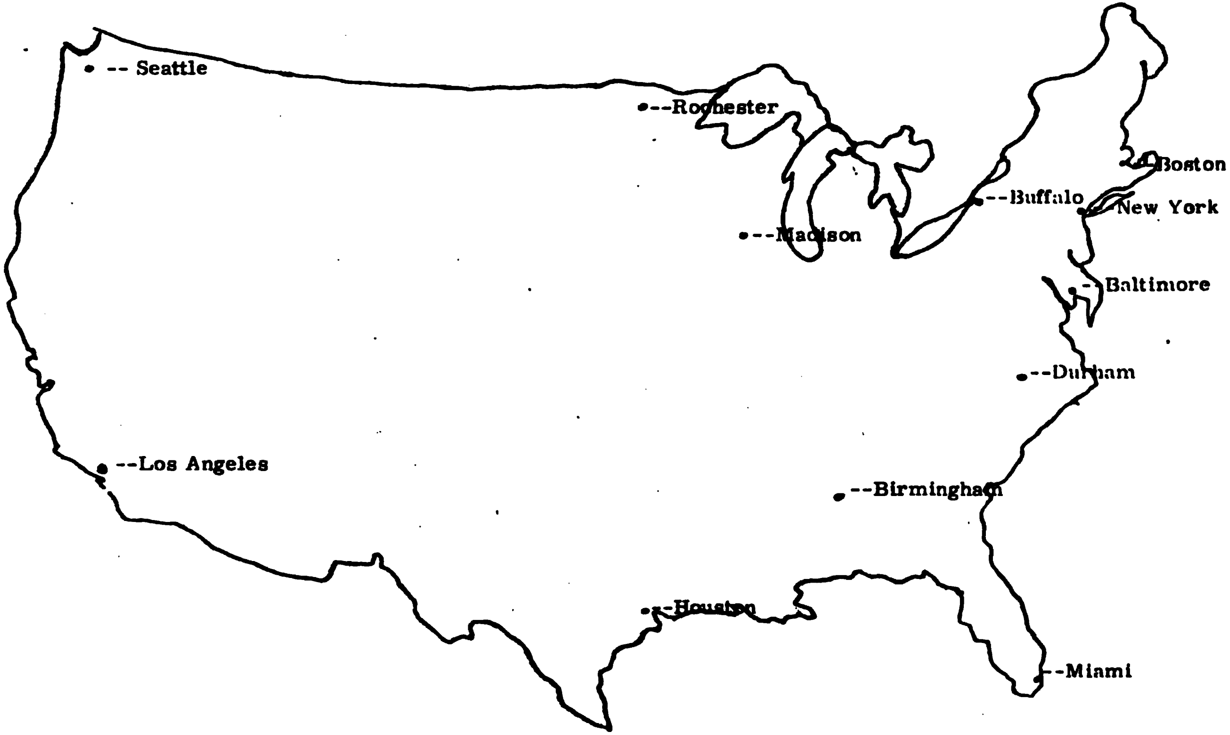
Established Comprehensive Centers

(In Thousands)

	Core Grants	All Other Grants and Contracts Research Grants Only		Fiscal 1974 Total *
Alabama University Birmingham	$ 907	($ 1,295)	$ 813	$ 1,720
Children's Cancer Rsch. Boston	1,188	(3,600)	2,977	4,165
Duke University Durham, N.C.	952	(401)	2,524	3,476
Hutchinson Cancer Center Seattle	700	(2,011)	5,010	5,710
Johns Hopkins Baltimore	969	(1,751)	3,817	4,786
M.D. Anderson Houston	905	(2,708)	8,298	9,203
Mayo Foundation Rochester, Minn.	862	(1,214)	1,273	2,135
Memorial Sloan-Kettering New York	6,369	(13,580)	14,189	20,558
Miami University Miami	375	(938)	2,333	2,708
Roswell Park Buffalo	371	(2,515)	7,051	7,422
Southern California U. Los Angeles	654	(2,012)	17,711	18,375
Wisconsin University Madison	706	(4,044)	13,767	14,473
Total	$14,968	$36,069	$79,763	$94,731

* NCI plans for 1974, based on a $589 mil. budget which would include money released from FY 73 impoundment.

Geographic Distribution
of
National Cancer Institute
Comprehensive Cancer Centers



CURRICULUM VITAE -- A. HAMBLIN LETTON, M.D.

January 1974

President of the National American Cancer Society, Inc., 1971-1972.

Surgeon in Private Practice.

Fellow of the American College of Surgeons.

Chairman, Patient Care and Research Committee, American College of Surgeons.

Chief of Staff, Georgia Baptist Hospital (Georgia's Largest Private Hospital).

Fellow of the Southern Surgical Association.

Diplomate, American Board of Surgery.

Member of the American Goiter Association.

Member of the Society of Nuclear Medicine.

Member of the Ewing Society.

Secretary-Director of Southeastern Surgical Congress.

Member of the Board of Directors, Georgia Division, American Cancer Society, Inc.

Active Attending Surgeon, Georgia Baptist Hospital.

Surgical Consultant, Scottish Rite Hospital.

Member of the Georgia Science and Technology Commission.

President, Atlanta Medical Center.

Consultant for the Georgia Division of Vocational Rehabilitation.

Member of Board of Judges, Mutual of Omaha.

Listed in Who's Who of America and Who's Who in the World.

Member of the Board of Directors, University Yacht Club.

Second Ponce de Leon Baptist Church, Deacon (inactive).

AMERICAN MEDICAL ASSOCIATION
535 NORTH DEARBORN STREET • CHICAGO, ILLINOIS 60610 • PHONE (312) 527-1500 • TWX 910-221-0300

ERNEST B. HOWARD, M.D.
Executive Vice President

February 5, 1974

The Honorable Edward M. Kennedy
Chairman, Subcommittee on Health
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Senator Kennedy:

On behalf of the American Medical Association, I would like to submit for your consideration our comments on S. 2893, the "National Cancer Act Amendments of 1974."

The bill before your Committee would amend and extend, for three years, the programs of the National Cancer Institute, and would provide increased funding to carry forth those activities now under way.

As you will recall, the AMA enthusiastically endorsed an increased national effort to seek cures for cancer and methods of preventing these diseases when Association representatives appeared before the Congress in 1971 to offer our support of the National Cancer Act during its original consideration. At that time, we recognized the need for the advocated increased funding of the cancer program. We continue to believe that the programs of the National Cancer Institute deserve a high priority and would recommend their continuation for another three years, and we are in basic support of this legislation. We would like to offer our comments on some of its specific provisions.

The Association supports the amendment to Section 402(b) of the Public Health Service Act which would authorize the Director of the National Cancer Institute to approve grants for cancer research or training without reviewing recommendations by the National Cancer Advisory Board if the direct cost of research and training did not exceed $35,000. We believe that this modification of existing law will relieve the National Cancer Advisory Board of an unnecessary burden of review of many small grant applications. The National Cancer Advisory Board could then concentrate its attention on major cancer research or training projects.

Under the present authority of Section 407(a)(7) of the Public Health Service Act, the Director of the National Cancer Institute is required, among other duties, to support appropriate manpower programs of training in fundamental sciences and clinical disciplines including, where appropriate, the use of training stipends, fellowships, and career awards. The legislation before you would delete the term, "where appropriate," thus making the use of training stipends, fellowships, and career awards a basic part of the program. We believe that this is an appropriate amendment to the present Act and recommend its support.

Section 408(a) of the present Public Health Service Act authorizes the Director of the National Cancer Institute to provide for the establishment of 15 new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. The legislation before you would delete reference to the limitation of 15, thus leaving open the number of centers which could be established under the Act. At the present time, there are 18 cancer centers, 15 of which were established under the bill and 3 existing centers which have received grants to strengthen their activities.

We share with the Secretary of HEW a belief that the present number of cancer research centers are adequate to meet the needs and programs envisioned by the present Act. If, after a careful examination of the presently operating 18 centers, and their ability to carry out their essential mission of demonstrating the best methods of cancer treatment, there is found a demonstrable need for more centers, then such additional centers should be specifically provided for, by number in legislation. We believe that the present 15 center limitation should be continued until such time as the need for additional centers is clearly demonstrated. We would urge that the limitation in present law be retained.

We believe that the broad spectrum of medical research merits increased support if we are to deal adequately with the major illnesses that cause disability and death. We must question whether the large amount of money being appropriated for cancer research can be effectively used or whether some of that money could be better used in other facets of medical research. We would urge that funding for cancer research be viewed in light of the total medical research activity currently under way in this country.

Increased funding for cancer must not compromise other research programs to the detriment of the nation's total health effort.

We have one further concern, which is not addressed by provisions of the legislation before you, which we believe is worthy of consideration by your Committee. The AMA believes that the attack upon cancer can be most effectively conducted by restructuring the administration of the National Cancer Institute to put it under the control of the Director of the National Institutes of Health.

At the present time, the National Cancer Institute is a relatively autonomous agency with its own budget. However, cancer is a multi-faceted problem that involves, among other elements, environmental contamination, genetics, cell metabolism, immunity, and perhaps infection by viral agents. Therefore, it is clear that the effort to cure cancer, if it is to be successful, will have to be a coordinated effort with the full involvement of all the National Institutes. This is a fact which is widely recognized and accepted throughout the scientific community. In addition, it would seem prudent to keep NIH intact rather than to continue to have it fragmented into independent agencies which compete for support and recognition rather than collaborate for scientific progress. We believe that the present administrative arrangement impairs the effectiveness and productivity of the entire NIH organization and fragments and diminishes the overall scientific effort of the National Institutes of Health.

In conclusion, we would like to reiterate our support of a 3-year extension of the National Cancer Institute but would urge a continuation of the limit, in present law, of 15 centers for clinical research, and training, and demonstration of advanced diagnostic and treatment methods relating to cancer. We would also urge that the administration of the National Cancer Institute be placed under the control of the Director of the National Institutes of Health.

Thank you for this opportunity of presenting these views. I respectfully request that this letter be made a part of the record of your hearings of S. 2893.

Sincerely,

EB Howard

Ernest B. Howard, M.D.

MICHAEL B. SHIMKIN, M.D.
PRESIDENT
UNIVERSITY OF CALIFORNIA
SAN DIEGO—SCHOOL OF MEDICINE
1144 SILVERADO ST.
LA JOLLA, CALIFORNIA 92037

HUGH J. CREECH, PH.D.
SECRETARY-TREASURER
THE INSTITUTE FOR CANCER RESEARCH
7701 BURHOLME AVENUE, FOX CHASE
PHILADELPHIA, PENNSYLVANIA 19111

April 24, 1973

The Honorable Gaylord Nelson
The United States Senate
Senate Office Building
Washington, D.C. 20510

Dear Sir:

The attached policy statement was unanimously endorsed by the members of the American Association for Cancer Research at its annual meeting on April 12 in Atlantic City.

The statement expresses concerns and suggestions in regard to biomedical research in the United States, of which cancer research is an integral part.

We hope you may consider the statement in the legislative and budgetary processes relevant to the cancer problem and related biomedical research. We would welcome the opportunity of discussing the statement in more detail with you.

Respectfully yours,

Michael B. Shimkin, M.D.
President

MBS/gd

MICHAEL B. SHIMKIN, M.D.
PRESIDENT
UNIVERSITY OF CALIFORNIA
SAN DIEGO—SCHOOL OF MEDICINE
1144 SILVERADO ST.
LA JOLLA, CALIFORNIA 92037

HUGH J. CREECH, PH.D.
SECRETARY-TREASURER
THE INSTITUTE FOR CANCER RESEARCH
7701 BURHOLME AVENUE, FOX CHASE
PHILADELPHIA, PENNSYLVANIA 19111

POLICY STATEMENT
(April 12, 1973)

The American Association for Cancer Research includes in its membership a high proportion of the total research force of the United States that is involved in work leading to the solution of the cancer problem.

The Association gratefully acknowledges the national confidence in cancer research expressed in the Cancer Act of 1971. It accepts the responsibilities implied in this confidence.

The Association wishes to emphasize that problem-oriented research directed against cancer will prosper to the degree that it can draw on the nutrient soil of basic biological research. Research investment in cancer alone, without adequate investment in broad biologic research, will be less ~~productive.~~

Truly original discoveries in science are often unpredictable and cannot be conveniently programmed. A sound research strategy must carefully balance centrally directed research with studies originating with the individual scientist.

The basis of scientific discovery is the prepared mind confronted by new or unanticipated findings. Such minds are most likely to be found among young scientists. Moreover, significant shortages have been clearly identified in several critical man-power areas. A cancer research program devoid of funds that can be applied to training is unsound, not only for the best development of new talent, but for technical capacities to translate new discoveries into improved care and treatment of the cancer patient.

The American Association for Cancer Research therefore recommends the following steps to the responsible Federal fiscal decision-makers and administrators of the National Cancer Program :

1) Prompt completion of review and prompt implementation of the National Cancer Plan.
2) Prompt release of authorized funds for cancer research for the present and future years.
3) Continued assignme~~nt of~~ an adequate portion of the total available funds ~~to~~ training in critical cancer research areas.
4) Utilization of the peer-review system for the allocation of National Cancer Institute funds to assure high quality of both programmed and individual cancer research.
5) Reallocation of available funds to increase significantly the support of individual research projects, including competing initial applications.
6) Augmentation of the number of scientific staff positions at the National Cancer Institute commensurate with its expanded responsibilities.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH
BETHESDA, MARYLAND 20014
Registry of Experimental Cancers
National Cancer Institute
Bldg. 37(ERF), Room 202

August 31, 1973

Frank J. Rauscher, Jr., Ph.D.
Director, National Cancer Program
National Cancer Institute
Bethesda, Maryland 20014

Dear Dr. Rauscher:

The enclosed final report of your ad hoc Committee on Testing for Environmental Chemical Carcinogens is submitted for your consideration. It reflects the unanimous views of the members with the exception of an additional suggestion made by Dr. Saffiotti which is indicated on page 5 as a minority opinion.

The ad hoc Committee was established by you on December 7, 1972 and charged:

a. To identify and review overlapping interests and activities of various Federal departments and agencies with respect to testing of chemicals for carcinogenicity.

b. To review in particular detail the responsibilities and plans of the Pine Bluff National Center for Toxicological Research in relation to NCI activities and plans in this field.

c. To make specific recommendations as to the role the NCI should play with respect to testing of chemicals for carcinogenicity in order that it might best promote the interests of the National Cancer Program in achieving its objective of prevention of human cancer.

The members are:
Abraham Cantarow, M.D.
Paul N. Harris, M.D.
Paul Nettesheim, M.D.
Umberto Saffiotti, M.D.
Harold L. Stewart, M.D., Chairman
Albert Tannenbaum, M.D.
Arthur C. Upton, M.D.
Gerald N. Wogan, Ph.D.

The staff consists of:
Morris F. Cranmer, Ph.D.
Herman F. Kraybill, Ph.D.
Howard L. Richardson, M.D.

Two meetings, each lasting two days, were held on March 8-9 and on May 31-June 1, 1973 in Building 37, Room 1B-04. Copies of the minutes, certified by the Chairman, have already been sent to you. Copies of the minutes, approved by the Committee, are enclosed.

On behalf of the members of the Committee, its staff and Chairman, I wish to thank you for your support of our work. It is the hope of all of us that our analysis will be informative and helpful to you, and that the implementation of our recommendations will promote one of your major objectives, the prevention of human cancer.

Sincerely,

Harold L. Stewart

Harold L. Stewart, M.D.
Chairman
ad hoc Committee on testing for
Environmental Chemical Carcinogens

Enclosures

Report
# of the
Director's ad hoc Committee
on Testing for Environmental Chemical Carcinogens

National Cancer Institute
National Institutes of Health
U.S. Department of Health, Education, and Welfare
August 1973

ANALYSIS AND RECOMMENDATIONS

This committee was established by the Director, NCI/NCP,

a. to identify and review overlapping interests and activities of various Federal departments and agencies with respect to testing of chemicals for carcinogenicity;

b. to review in particular detail the responsibilities and plans of the Pine Bluff Center for Toxicological Research in relation to NCI activities and plans in this field;

c. to make specific recommendations as to the role the NCI should play with respect to testing of chemicals for carcinogenicity in order that it might best promote the interests of the National Cancer Program in achieving its objective of prevention of human cancer.

Information bearing on these matters was obtained from the FDA, EPA, NCTR, USDA, NOSHA, NIOSH, NIEHS, DOD and AEC (Appendix), and discussions were held with representatives of most of these organizations in the course of the meetings of the committee.

Review of the available information led to the following conclusions:

(a) Although various governmental units are engaged in testing chemicals for carcinogenicity incident to their regulatory responsibilities or the scientific interests of their staffs, there is no legal requirement for systematic testing for carcinogenicity of chemicals present in or being introduced into the environment. The rather extensive, but comparatively limited current activities of the NCI, are the closest approximation to a program of this nature.

(b) The proposed program of the NCTR in the area of carcinogenesis devoted specifically to large-scale, low-level, dose-effect studies in the mouse, will not contribute materially to progress toward its stated objective, viz., improved capability for assessing the carcinogenic hazard for man on the basis of data obtained in laboratory animals.

The ad hoc Committee on Testing for Environmental Chemical Carcinogens endorses the following opinions expressed on the subject of carcinogenicity testing by other reviewing bodies:

(1) Report of Task Force on Research Planning in Environmental Health Science, March 1970: 'Those concerned with safeguarding man's health must assure that the benefits of new technologies and new products

are attained with minimal risk to man's health and well-being. To accomplish this goal requires new approaches. Rather than depending on hope, luck and hindsight (as has often been the case up to now), more careful surveillance of the health of the population and more systematized testing of the safety of individual chemicals now in use, or proposed for the future, must be employed."

(2) Report of National Cancer Plan (OBJECTIVE 1) Panel of Experts: "Because of the potential importance and significance of environmental factors in the production of human cancer, it is essential for the NCI to establish ..... a resource that would provide a mechanism for interaction with other agencies that have responsibility for regulatory action....."

"The functions of this resource would be to interpret to the appropriate regulatory agency the significance of relevant and valid carcinogenicity testing programs developed either within the NCI or through grants and contracts let through it. Further, it would receive from such agencies questions concerning the potential carcinogenic significance of new materials found in, or about to be introduced into, the environment. It would be expected to keep abreast of all new technological developments and all new carcinogenic leads, interrelating these in a meaningful and significant fashion."

In forming judgments as to the possible carcinogenic hazard posed by a particular environmental chemical, consideration must be given to certain important aspects of the actions of these agents. These include, among others: the long latent period; the wide variation in individual susceptibility and degree of exposure; the possibilities of exposure transplacentally (fetus) and via the mother's milk (newborn); the potential of most chemical carcinogens for producing cancers of various organs under different circumstances; the additive, synergistic and antagonistic actions of many carcinogens; the virtual irreversibility of effects of submanifestational doses; the importance, to the ultimate development of cancer, of the totality of lifetime exposure to all carcinogenic agents, chemicals, radiation and viruses.

At the present state of knowledge in the area of chemical carcinogenesis, the most practical direct approach to prevention of cancer in man lies in preventing or minimizing exposure to known carcinogenic chemicals, and to radiation. To this end, there is urgent need to identify chemical carcinogens present in, or being introduced into, our environment.

The National Cancer Act of 1971 contains the following mandates:

"407 (b). In carrying out the National Cancer Program, the Director of the National Cancer Institute shall:

> "(1) With the advice of the National Cancer Advisory Board, plan and develop an expanded, intensified, and coordinated cancer research progran encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs."
>
> "(4) Collect, analyze, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer....."

"410. The Director of the National Cancer Institute is ..... authorized:"

> "(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State and local agencies, with or without reimbursement therefor;"
>
> "(8) to take necessary action to insure that all channels for dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and other scientific, medical, and Biomedical disciplines and organizations, nationally and internationally."

In our opinion, these mandates imply a moral, if indeed not a legal, obligation on the part of the NCI to assume the responsibility for developing a program of systematic testing of environmental chemicals for carcinogenicity, since this is not being done by other agencies. However, the resources presently available to the NCI are wholly inadequate for this purpose.

RECOMMENDATIONS

1. Consideration should be given to establishment of a Federal Council on Environmental Carcinogenic Hazards, analogous to the Federal Radiation Council, which formulated Radiation Protection Standards. This Council would be authorized to insure that standards are reasonably consistent with respect to criteria for testing, evaluation of test results, selection of chemical substances for testing and test procedures employed. These must reflect the best judgments of authorities in the field of chemical carcinogenesis and carcinogenicity testing, in order to insure, insofar as is possible, the validity of the experimental data and of the interpretations placed upon them.

2. In accordance with its responsibilities under the National Cancer Act of 1971, the National Cancer Institute should develop a comprehensive national program for identification of carcinogenic chemical hazards in the environment, with a view to their elimination or control. This will require close cooperation with other government agencies, nongovernmental institutions and also industry, and development of a mechanism for continual and prompt interchange of relevant information.

3. The cost of the program should be borne jointly by the various agencies and organizations involved.

4. The resources required for this program should be provided without delay.

5. A unit within the National Cancer Institute should be charged specifically with the responsibility for identification of carcinogenic chemical substances in the environment. This unit should devise necessary mechanisms for:

   (a) selection of chemical substances to be tested;
   (b) design and monitoring of test procedures;
   (c) evaluation of data obtained;
   (d) formulation of recommendations to appropriate agencies based on test results.

Minority opinion.--(Dr. Saffiotti has suggested inserting the phrase "by the National Cancer Institute" following the word "establishment" in line 1, Recommendation No. 1, on page 4.)

Recommendation No. 1, as modified by Dr. Saffiotti, reads as follows:

1. Consideration should be given to establishment by the National Cancer Institute of a Federal Council on Environmental Carcinogenic Hazards, analogous to the Federal Radiation Council, which formulated Radiation Protection Standards. This Council would be authorized to insure that standards are reasonably consistent with respect to criteria for testing, evaluation of test results, selection of chemical substances for testing and test procedures employed. These must reflect the best judgments of authorities in the field of chemical carcinogenesis and carcinogenicity testing, in order to insure, insofar as is possible, the validity of the experimental data and of the interpretations placed upon them.

[From the Washington Post, Nov. 21, 1973]

CANCER WAR'S SEPARATE STATUS A MISTAKE, DR. EDWARDS SAYS

(By Stuart Auerbach)

The government's chief health official, Dr. Charles C. Edwards, said yesterday that Congress and the President made an administrative "mistake" by giving the war on cancer semi-independent status in the federal bureaucracy.

Edwards, the Assistant Secretary of Health, Education, and Welfare for health, said that the budget for the National Cancer Institute has got to be part of the total health budget."

Two years ago, the cancer war was given semi-independent status with a direct link to the White House to make sure it gets all the money it needs. President Nixon, in signing the bill, said the cancer institute would not have to compete with agencies of government for funds.

"In spite of the law," Edwards told a luncheon of health writers and lobbyists, "I think we've worked out a very workable arrangement that can go on indefinitely."

He said that Dr. Frank J. Rauscher, President Nixon's choice to head the cancer institute, hasn't "interpreted the law in its strictest sense," which would only permit Edwards and HEW Secretary Caspar W. Weinberger to give advice on budgetary matters.

Instead, Edwards continued, "he considered himself to be part of the whole health team."

Edwards acknowledged that Rauscher had only "limited" means to declare his independence of the HEW hierarchy—the simplest of which is taking his case over Weinberger's and Edwards' heads to the people and Congress.

Edwards said the cancer budget has not suffered from the present arrangement. In 1970, the cancer budget was $180 million; this year the President requested $500 million. But Rauscher said in a memo that he really needs the $640 million that Congress authorized to do the job he is supposed to do. Edwards said the cancer institute requested $740 million in next year's budget.

Edwards said that if cancer gets so much money, other health research programs will be "destroyed."

Edwards' views were disputed in a telephone interview By Benno C. Schmidt, head of the three-man panel appointed by Mr. Nixon to oversee the war on cancer. He said the cancer program has flourished as a result of the new status and money it was given.

Schmidt said he has continually told the White House that cancer should not get added funds at the expense of other research programs, many of which supply vital leads for understanding and treating cancer.

"I think it would be a step backward to diminish the authority and responsibility of the director of the National Cancer Institute for the purpose of enhancing the power of the various levels above the director," Schmidt said.

[From the Washington Post, Jan. 24, 1974]

ON THE QUESTION OF AUTONOMY FOR NIH

The question of autonomy for NIH, as your Jan. 19 editorial rightly suggests, is indeed more important than the manner in which essential biomedical research is supported. And while it may or may not be simple to grant autonomy to NIH, to do that would be to eccept the view that biomedical research is not, and need not be, an integral part of our nation's efforts to solve health problems.

At a time when the annual appropriation for NIH was counted in the tens or hundreds of millions of dollars and the total federal involvement in the health care system was comparatively small, it might have been possible to treat NIH and indeed all of biomedical research as an independent part of federal health enterprise. But that era ended when the federal government became a dominant figure in the health care systems of this country. Today the annual NIH budget is more than $2 billion, federal funds pay for 25 percent of all the health care provided in the United States, and almost half of the cost of medical and other health training is borne by U.S. taxpayers.

To assume that the vital contribution of research can somehow be made more certain by insulating NIH from the serious fiscal and managerial problems that must concern us all is to yearn for a simpler, more halcyon time that is likely never to return.

Clearly we do have to restore confidence in NIH, confidence that was diminished in the past through inadequate leadership and a misguided sense of the place of research in the nation's efforts to solve its health problems. The real need is to establish effective methods for setting research priorities among the institutes and program of the NIH in order that the total biomedical research effort remain in balance. If, in fact, the NIH leadership had been more perceptive and responsive we might not have witnessed the removal of the cancer research effort from the administrative control of NIH, a move that threatens the further dissolution of biomedical research efforts.

Institutions—even the finest biomedical research institution in the world—must change. Fortunately, the need for constructive change is appreciated and welcomed by many scientists at NIH and elsewhere who do not share the sentiments of Dr. Sherman and who are determined that NIH will contribute effectively and creatively to solution of the health problems facing this country and the world.

CHARLES C. EDWARDS, M.D.,
Assistant Secretary for Health,
Department of Health, Education and Welfare.

[From Science magazine, Dec. 14, 1973]

CANCER: SELECT COMMITTEE CALLS VIRUS PROGRAM A CLOSED SHOP

(By Barbara J. Culliton)

The last few weeks have not been all that one might hope for the nation's premier biomedical research enterprise—the war to conquer cancer. First, assistant secretary for health Charles C. Edwards declared the whole operation an "administrative mistake." Then, a special committee of the National Cancer Advisory Board turned in a review of the multimillion dollar Virus Cancer Program (VCP) that was not exactly complimentary.

Edward's remark won him as many friends as it did adversaries. Right from the start, many, many scientists opposed the administrative scheme that set the National Cancer Institute (NCI), which is running the war, apart from the rest of the National Institutes of Health. But the National Cancer Act of 1971 was passed just the same, and the question of whether that ever should have happened became submerged as controversies arose over details about how the cancer crusade should be staged. So, a lot of people, including some members of the cancer board itself, were happy to see Edwards resurrect what they consider still to be the basic issue.

The catch is that, were Edwards to have his way by withdrawing the NCI's special status within NIH and cutting it down to size, it does not necessarily follow that future decisions about the level and style of support of cancer research would revert to the scientific community. Nor does it logically follow that less money for cancer would mean more for anyone else. What does follow is that scientific decision-making would become even more centralized within the Administration than it is now (*Science*, 2 November).

The strongest exception to Edwards's charge that the cancer program is an administrative mistake has come from investment banker Benno C. Schmidt, who is President Nixon's principal adviser on the cancer crusade. "Despite expressions to the contrary by the assistant secretary for health, it is my opinion that the National Cancer Act of 1971 is a sound piece of legislation that has worked extremely well," he told a crowd of physicians attending the National Conference on Virology and Immunology in Human Cancer, held recently in New York. The mistakes that have been made, in his opinion, should be blamed on the Administration, not the cancer legislation. Schmidt thinks it was a mistake for the Administration to cut research training grants and to reduce funds for other areas of research at a time when progress in cancer depends upon progress in other areas as well. "At the time we were urging on Congress and the Administration a greater effort in cancer, we were explicit in the position that the increased cancer effort should not be at the expense of other biomedical research. I must confess that I, for one, did not believe that would happen." Now, Schmidt admits that he was wrong.

In light of these fundamental questions about the way biomedical research in this country is going, a controversy over the NCI's Virus Cancer Program [formerly the Special Virus Cancer Program (SVCP)] seems trivial. Nevertheless, it is central to questions that are being raised about the ways in which big league, targeted efforts are being run. The answer, in this case, anyway, seems to be not very well.

VIRUS PROGRAM CRITICIZED

For one reason or another, the Virus Cancer Program has provoked controversy ever since it began in 1964 as an organized, coordinated effort to determine whether viruses cause human cancer, and, if so, to do something about it. The VCP is operated with research contracts, rather than grants, and, according to its defenders, supports a large scientific corps for the money—1,000 researchers and 1,000 technical and secretarial personnel. Within the VCP, several groups have contracts for $300,000 or more. Some top $1 million. Today, the VCP gets 12 percent of the total budget for the war on cancer and is one of the largest contract programs within NIH.

It is not very surprising that there are a lot of people whose feelings about the VCP are anything but generous. And, although unofficial, those feelings have been well chronicled in an article by Nicholas Wade (*Science*, 24 December 1971). Last March, the cancer advisory board decided that it was time to take an official look at the virus program, and it agreed that a committee would be appointed to do so.

Appointing the committee turned out to be rather tricky when initial efforts to find cancer virus scientists without ties to the VCP, or known feelings about it, were unrewarding. In the end, the committee consisted primarily of men who are not working directly in cancer virus research.[1] Norton Zinder of Rockefeller University is chairman.

The so-called Zinder report, which probably will not be released for several months, was presented to the cancer board in closed session at its recent meeting. Members of the committee, the board, and the VCP were present.

The report begins by stating that the committee fully accepts the probability that viruses cause at least some human cancers and that it believes studies in virology can lead to a basic understanding of a tumor cell. It concludes that the VCP is, therefore, a perfectly sensible kind of program to have and states quite explicitly that it should be continued. Just the same, the report, in the committee's own judgment, has a decidedly "negative tone."

"Should this single funding instrument [the VCP] *as it currently operates* have so large a fraction of the sources that support cancer virology at its disposal? It is the view of this ad hoc committee that the answer to this question is "No." Among other quarrels it has with the VCP, the Zinder committee challenges the assumption that the time is ,or was, ripe for the program's goals to be attained. "It is now 10 years and a quarter of a billion dollars later, and the same two objectives remain. It was the assumptions that were wrong. There did not, nor does there, exist sufficient knowledge to mount such a narrowly targeted program," said the committee, which then proceeded to take issue with specific ways in which the VCP functions.

Its main bone of contention is that the Virus Cancer Program is a closed shop. Too few scientists participate. Too few people, all on friendly terms with each other, are in charge of handing out large sums of money to each other. It's too exclusive, too incestuous.

It was only natural that when the SVCP was formed a small group of investigators was involved—an "in group." It now represents a somewhat larger "in group" of investigators. Administratively its procedures lack vigor, are apparently attuned to the benefit of staff personnel, and are full of conflicts of interest. Because the direct targets have become fuzzy since 1964, although available funds for the program continued to grow, the program seems to have become an end in itself, its existence justifying further existence.

Virtually everyone, including NCI director Frank J. Rauscher, Jr., and John Moloney, who heads the VCP, acknowledges that there is room for improvement.

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[1] James Darnell, Vittorio Defendi, Robert A. Good, Keith Porter, James Price, Wallace Rowe, Aaron Shatkin, Chandler Stetson, Richard Tjalma, Norton Zinder, and Maurice Guss, executive secretary.

Moloney told *Science* that he thinks the idea of opening the program up to more scientists is well taken, within limits. "They have a point. We could open up. But you have to remember, this is a targeted program with specific goals, not a general granting agency." In addition to opening the shop to more scientists, by advertising contracts more widely, for example, Moloney says he was already planning to include more outside researchers on VCP review groups and that he is preparing to assemble a group of outside scientists to constitute an advisory body to his office. They will give general advice on the program and be available to advise specifically any of the various VCP divisions, or segments, as necessary. Whether such moves will quell criticism or satisfy the complaints of the Zinder committee is uncertain.

Another major issue raised in the Zinder report is the matter of contracts versus grants as a mechanism for funding science. Last June, the committee held a meeting in New York at which many persons associated with the VCP testified. Several of them were asked for their views about doing research by contract rather than by grant. In addition, the committee apparently considered the issue repeatedly as it evaluated the VCP through various routes during the course of its investigation. Most of the members of the committee do research by grant, rather than by contract, and their feeling that this is the right way to conduct research is apparent. One gets the impression that the committee is sympathetic to the use of contracts to procure specific services or materials. It makes sense, for instance, to contract with someone to produce viruses, run certain standardized tests, obtain human biopsy material, and so forth. But scientists supported by VCP contracts are also doing a large amount of what can only be called basic research in the strictest sense.

The Zinder committee seems to have two objections to this. One is simply that such studies *should* be done by grant. The other is that because the review of contracts is, in its view, not as rigorous as the review of grant applications by NIH study sections, a lot of mediocre contract work is being supported at what may be the expense of grant research.

There really are two issues. Should all basic research be done exclusively by grants? It is a question the biomedical community has been fixated on for quite a while. Some people say yes. Others, emphatically no. It is not apparent why there has to be an either-or answer, but there are very few people who really believe that there is room for both. Most of those who do are scientists who used to work on grants and now have contract support.

Should mediocre work, work that would be turned down as a grant application, be supported, sometimes virtually indefinitely, by contract? Obviously not, and here some of the recommendations of the Zinder committee surely have a place. Scientists should not, for example, sit in the room when their own contracts come up for approval. Nor, for that matter, should members of one review group have control over the contracts of another member. (VCP scientists say this procedure will be avoided under *newly* instituted regulations.) The clincher, which may be legally impossible for the NCI to implement, even were it to want to, is a recommendation to clean house and start all over again. "All contractors should be notified that their contracts will be terminated over the next 3 years."

According to Rauscher, who was responsibe for closing the portion of the board meeting at which the Zinder report was discussed, the board gave it mixed reviews. (Among the members of the board, it should be noted, are persons funded by the VCP, persons known to be antipathetic toward it, and persons in between.) There was some feeling, he says that the report focused too much on the contract versus grant issue. Others felt it failed to recognize some of the very real achievements of VCP scientists, achievement which they believe can be attributed to the fact that the resources of the program and the collaboration it fosters among groups offer something grant research does not. Others felt the report was fine.

Zinder prefers not to comment in detail because he feels obligated to maintain the confidentiality of the board and the NCI, although he says he would have been willing to present the report in open session. He will say, however, that he and the committee stand behind the report and that it was issued without a single minority opinion.

Technically, the cancer board has not yet officially received the report and may not do so until its next meeting in March. Meanwhile, discussion of details of the report will continue through a committee of the board, a committee of the Zinder committee, and a committee of the VCP staff.

Whatever finally happens to the VCP, there are members of the board who say that the Zinder committee report must not simply be accepted and then shelved. Their intention is to see that it is not, which is particularly important at a time when the Administration is putting pressure on the scientific community to do more research by contract, not less.

[From Science Magazine, Dec. 24, 1971]

SPECIAL VIRUS CANCER PROGRAM: TRAVAILS OF A BIOLOGICAL MOONSHOT

Can basic research be targeted? The assumption that it can or ought to be has proved increasingly attractive to politicians and budget makers disenchanted with science for science's sake. Yet despite the importance of the issue, little attention has been given to a uniquely ambitious attempt at targeting basic research toward a specific goal, the Special Virus Cancer Program (SVCP) of the National Cancer Institute (NCI). The SVCP, now in its eighth year, has from the start relied heavily on the planning techniques used in space and military programs, and, for a biological undertaking, it has made similarly lavish use of resources. How well has the SVCP's moonshot approach succeeded in forcing the pace of scientific advance?

On the face of things, there has been much progress made since 1964, when the SVCP was launched with a $10 million budget. Much new knowledge has been acquired about tumor viruses and their role in causing cancer in animals. Within the last few months, the SVCP seems to have come within reach of a major goal, the isolation of viruses presumed to cause cancer in man. Discovery of one such virus was announced this July by SVCP-supported scientists at the M. D. Anderson Institute in Houston, and two more eurekas were sounded earlier this month by SVCP teams at the University of Southern California and at Georgetown University. With a tally of no less than three viruses, each announced as a probable human cancer agent by its discoverers, the SVCP might seem well on target in its goal of developing a human cancer vaccine or other antiviral magic bullet.

Although this is how the public and Congress may see it, the SVCP is held in rather lower esteem among the scientific community, particularly by those best qualified to assess the program's contribution.[1] "The SVCP has been extremely ineffective and maybe has even had a negative effect," says one distinguished cancer researcher. "I hear nothing but complaints about the SVCP. Its main trouble is that it doesn't have much of an intellectual base; it has Huebner's enormous energies, one very good person—George Todaro—but most of the contractees are pretty mediocre"—runs the verdict of a well-established biologist. An eminent West Coast virologist complains, "The SVCP is a masquerade; they make continuous proclamations of progress to justify the vast amounts of money being spent. But the nature of the program is that it excludes people who are highly critical. It has created a kind of stampede in which everyone rushes lemming- like in the same direction, and critical discussion, points of obvious contradiction, are ignored."

Several virologists blame the moon-shot-style approach of the program for what they see as its lack of evident intellectual underpinning. The present emphasis on finding a human cancer virus is regarded by some virologists as more a political than a scientific goal, designed to impress politicians and sustain the program's funding momentum. (For unless human cells differ from mouse and chicken cells, it is already clear that their genetic inheritance includes the specifications for a virus; the physical isolation of a human-derived virus will not lead to an understanding of the fundamental aspects of cancer and cell biology, which are given less attention by the SVCP.)

The success or otherwise of the SVCP is of topical interest not just because of the fanfare over the recent human virus claims, but also because of the impending reorganization of the NCI hierarchy caused by the new cancer funding. (There are also signs that the programmatic approach of the SVCP is likely to be extended to other areas of cancer research—the NCI has let an

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[1] Apart from officials of the SVCP, almost all scientists interviewed for this article asked that their names not be mentioned, many citing the risk of being denied funds, since, as one scientist said, "the NCI has a history of vindictiveness." Almost without exception the scientists quoted are both eminent and active in virology or related fields.

$800,000 contract to a firm of systems analysts to develop a "national cancer plan.") The major criticisms made of the SVCP are that it uses a wasteful method of supporting research, allows too much power to individual scientists to channel resources in a single direction, has failed to develop an intellectual base for its overall research strategy, and excludes critics and outside advice.

The SVCP has its admirers and positive achievements, but the existence of criticisms such as these, whether justified or not, shows that the program has not won the hearts and minds of the academic world. Yet the administrators of the SVCP seem to have little inkling of the dissidence in the world outside, or at least have taken no steps to cope with it. Officially, everything is running as smoothly as the arrows on the SVCP master plan, an assortment of interconnected boxes that bear labels such as "decision point" and "immunological control," and which embody the "research logic flow" for licking cancer.

The program was launched in 1964, largely on the strength of the association then coming to light between the African cancer known as Burkitt's lymphoma and the herpes-type virus named after Epstein and Barr. But the methodology and intellectual approach of the program, which until 1969 was called the Special Virus Leukemia Program, was inherited from the NCI's chemotherapy program. With the unwritten motto "Nothing too stupid to test," the chemotherapy program has handed out some $230 million since 1955 in the search for a magic bullet against cancer, yet has managed to miss discovering many of the more useful anticancer agents in current use. Nevertheless, NCI officials decided to model other aspects of cancer research on the chemotherapy program, and since the contract mechanism was an essential feature of the planned approach—how else can a planner be sure of finding others to follow his ideas?—contracts were built into the ground plan of the cancer virus program.

The budget of the SVCP had climbed to $36 million by fiscal 1971, accounting for nearly two-thirds of the funds available to the NCI's etiology division, and this year's budget for SVCP is $49 million. Formally, the SVCP is the extramural research program of the NCI's Office of Viral Oncology, but the same people, though in different capacities, operate both program and office, and the two are, for practical purposes, inseparable.

The NCI scientific director for viral oncology and chairman of the SVCP is John B. Moloney. Under Moloney serve three branch chiefs, Robert Manaker, Robert J. Huebner, and George Todaro. The names of the three branches, which, by and large, differ from one another as much as do their respective functions, are the viral biology branch (Manaker), the viral carcinogenesis branch (Huebner), and the viral leukemia and lymphoma branch (Todaro). The three branches conduct some in-house research, which is distinct in theory but not in practice from the extramural research supported by the SVCP. In fact, a fair fraction of SVCP funds are used to support industrial laboratories that serve simply as extensions of the branch chiefs' in-house research facilities. These sums seem to amount to about $5.5 million for Huebner's laboratories, $1.8 million for Todaro's, and none for Manaker's. The purpose of this arrangement is to provide operational flexibility and avoid the restrictions on NIH hiring.

The SVCP is divided into eight segments, each of which is supposed to have a specific research objective. Each segment is presided over by a chairman and advisory working panel that reviews contracts. Contracts are directly supervised by project officers, but a segment chairman may act as his own project officer, particularly for contracts that are extensions of his in-house research. The largest of the eight SVCP segments are the developmental research segment chaired by Manaker, which in fiscal 1971 controlled $10.1 million of the $31.6 million available to the program, and the solid tumor virus segment chaired by Huebner, which disposed of contracts worth $9.6 million. In addition, the branch chiefs control their in-house research budgets, which in fiscal 1971 amounted to a total of $4 million.

The total amounts controlled by each branch chief fluctuate quite widely from month to month as contracts are let, axed, or swapped, but a current estimate given by Frank J. Rauscher, scientific director for etiology and Moloney's predecessor as head of the SVCP, is that Manaker controls $9 million, Huebner $7.5 million, and Todaro $6 million. Probably few individuals in the history of biological research have had such unfettered control over so much money.

The unusual power wielded by the three branches is one focus for criticism from the academic community; but the strongest objections are to the contract mechanism of supporting research and what is perceived as the program's insulation from outside advice. "They have purposely isolated themselves from the scientific community because they have been so much on the defensive," says a virologist acquainted with NIH affairs. According to a scientist on contract to the SVCP, "The program is structurally not open. The methods by which decisions are made are designed to concentrate power with the SVCP." Although all contracts awarded by the SVCP are reviewed by the segment working groups, on which outside scientists are represented, these committees are said to function as rubber stamps for decisions already made by SVCP administrators.

Almost universal is the criticism that, for lack of outside advice and the checks and balances that govern other research programs, the principal officers of the SVCP have too much power. "I feel enormous uneasiness about the power the branch chiefs wield," says a virologist under contract to the SVCP. "It's just plain wrong. If some check cannot be put on them, then we are going to see an incredible fiasco should their judgment prove wrong." Huebner, Todaro, and Manaker each control sums of money that equal or exceed the $6 million disposed of by the entire NIH virology study section in fiscal 1971.

Almost all research supported by the NIH is financed by grants, which are allocated by a system of peer review and are not tied down to specific objectives. By contrast, the SVCP distributes all its monies in the form of contracts, which are not subject to peer review. This applies not only to clearly definable projects such as the preparation of viruses or the collection of human tissue specimens, but also to research work that, in many instances, is no different in kind from that supported by the grant system. The SVCP's exclusive reliance on contracts is considered one of its more unpopular features in the academic world. One virologist explains, "Most of the people making the top decisions at the SVCP are not top scientists. They are allocating enormous amounts of money on the basis of relatively little knowledge. But to make scientific decisions of this nature is a complicated and chancy business. The reason why the peer review system grew up is that no one individual can make these decisions intelligently."

Academic scientists point out that most of the important discoveries in cancer virology made in recent years have come from scientists working on grants, not SVCP contracts. "If you delete most of the work financed under contract to the SVCP, we would be almost as far along the road as we are now," is the verdict of one well-known virologist. "There have been lots of advances lately, but I don't know if I could assign any of them to this particular program," says a scientist intimately acquainted with the program's affairs. Another intimate of the SVCP concludes that nothing done on contract could not have been done on research grants at one-sixth to one-tenth of the cost.

Many outside scientists criticize what they consider to be the waste and poor quality of much contract research. The standard of SVCP contracts seems to have improved markedly in the last few years—many eminent virologists now have contracts with the program—and it probably no longer happens that application considered not worthy of support by the NIH virology studies section receive SVCP support. But many of the 120 contracts currently let by the SVCP still arouse less than unanimous enthusiasm.

THREE LOOK-ALIKE BRANCHES

How does the SVCP look from the inside? To the untutored eye there is little difference in the character of the contracts controlled by the three branch chiefs, and everyone concerned gives slightly different answers. According to Rauscher, Manaker looks after resources and research on herpestype viruses, Todaro is concerned with the molecular biology of C-type viruses, and Huebner's interests are in vital serology, epidemiology, and chemical-viral cocarcinogensis. According to Manaker, "My segment is tapered towards investigations involving specifically human problems. Huebner started off with DNA viruses, then shifted to RNA viruses and has spent a considerable amount of his time looking at the natural history of cancer." Huebner's perspective is that he and Todaro do not do the same things but "leapfrog" each other; Manaker is responsible "for herpes, for a lot of resources, and for Spiegelman." Todaro says that his program puts more emphasis on basic molecular biology than the other branches do. He denies that there is any duplication between his program and Huebner's—"Huebner and I do in practice coordinate our work, and if there is any competition with Huebner's branch it is a very healthy one." Another opinion, given by a scientist close to Huebner's part of the program, is this: "There is hardly any difference in subject matter between the three chiefs. You might say Manaker was more into herpes, but it isn't really true. The real difference is one of style. Huebner feels that scientific input should come from in-house, meaning largely him, and he is exceptionally good at suggesting ideas for people to do and at seeing that his contractors communicate with each other. So his segment is really rather well controlled. Manaker manages contracts where no particular scientific input is required from him.

His contracts are a hodgepodge—if they interconnect, no one has ever seen the interconnection." The same scientist adds: "The bulk of the program is still a bunch of really worthless junk, such as injecting monkeys with God knows what and other holdovers from the early days of the program."

As far as this reporter has been able to discern, there are, in effect, two different SVCP's, neither of which has very much to do with the other except for the sharing of resources. Both programs have their good points, but both are probably the worse off for being largely closed to genuine outside review. One program is that administered by Huebner and Todaro, both of whom actively participate in the research they direct and have clear ideas of the direction in which they wish the program to go. ("The SVCP is how I feel about cancer," says Huebner.) The other program is that directed by the scientist-administrators such as Rauscher (when he was chairman), Moloney, and Manaker. All three are distinguished scientsts, though none is still active in the laboratory as are Huebner and Todaro.

Indications that the two camps operate largely independently are not hard to find. The three recent claims to have found candidate human viruses are a case in point. The candidate human cancer virus announced in July this year was discovered in the laboratory of one of Manaker's contractors, Leon Dmochowski of the M. D. Anderson Institute in Houston (the Institute's contract is at present $600,000 a year; since 1965 it has received some $2.7 million from tbe SVCP). Whereupon laboratories in the Huebner-Todaro program quickly proved to their own satisfaction that the virus was in fact a mouse virus that had contaminated the cell culture.

(Independent tests now make this verdict rather less certain.) Huebner is said to have obtained samples of the Dmochowski virus after writing a memorandum to Carl Baker, director of the NCI, urging that, because of the numbers of people dying daily of cancer and the research funds being expended thereon, Dmochowski not be allowed to sit on his virus. Earlier this month, scientists at the University of Southern California Medical School, which holds a $1,600,000 contract from Huebner, announced that they had released a candidate human virus after growing human cancer cells in cats. Scientists in the other camp naturally refer to the USC virus as a cat virus, but more serious evidence of rivalry was a second claim to have discovered a human virus, announced simultaneously and in direct reaction to the USC claim by scientists at Georgetown University under contract to another segment chairman, W. Ray Bryan. (Both claims were announced before appearing in the scientific literature.) Although it would doubtless be inapposite for SVCP management to try to control the release of information by their contractors, closer coordination between the two rival camps could at least establish a set of minimum criteria for announcing a human cancer virus.

A more serious lack of management control is evident in the segment working panels that are supposed to review all SVCP contracts. Rauscher and Moloney point to the existence of these panels as evidence of outside review. Most of the panels draw half of their members from the NCI staff and half from outside, but in practice it is almost impossible for the outside scientists to vote down a contract of which they disapprove. According to one panel member, whose account is confirmed by a second member of the same panel, the voting procedure on contracts is that a favorable vote may be given without explanation, an abstention counts with the majority (in effect, as an affirmative vote), but negative votes must be justified in writing. Since materials relating to a contract are often distributed only on the morning of the panel's meeting, members have to read and listen simultaneously; thus, the segment chairman, who can usually count on the votes of the NCI members, is rarely overruled. "The outside consultants are likely to end up approving things after the fact," says a former panel member, who indicates that most of the decisions on contracts are taken by segment chairmen before the working panel meets.

Another awkward feature of the working panels as founts of independent advice is the practice of having contractors as panel members. Asked how panel members. Asked how panel members were selected, Rauscher told *Science* that Huebner, for example, will ask his panel members to suggest names of outside scientists, which are then submitted for approval first to Moloney, then to Rauscher, and finally to Baker. The membership of Huebner's working panel, as approved by Moloney, Rauscher, and Baker, is as follows: Maurice Green, St. Louis University, holder of a $750,000 contract from Huebner's segment; Leonard Hayflick, Stanford University, holder of a $175,000 contract from Huebner's segment; Karl Hellstrom, University of Washington, holder of an $83,000 contract from Huebner's segment; Edwin Lennette, California Department of Public Health, holder of a $33,000 contract from Huebner's segment; Hanas Meier, Jackson Laboratories, holder of a $299,000 contract from Huebner's segment; Joseph Melnick, Baylor University, holder of an $800,000 contract from Manaker's segment; and two NCI staff members. The panel's one independent voice is Wallace P. Rowe of the National Institute of Allergy and Infectious Diseases.

The free-for-all over the candidate human cancer viruses and the setup of the segment working panels raises the question of who runs the SVCP. Several sources state that Maloney, the formal head of the program, cannot control Huebner because of Huebner's close relationship with Baker; Moloney does the best he can within the rules set by Baker, these sources say. In fact, there may be some advantage in the diversity allowed by the lack of central control. Scientists in the Huebner-Todaro camp like to depict the Manaker-Maloney-Rauscher part of the program—called for convenience the administrators' SVCP—as a ragbag of unproductive contracts based on outmoded approaches. This is closer to parody than truth; the administrative part of the program may not have the same drive and sense of direction as the Huebner-Todaro part, but the average standard of its contracts has in the last 2 years improved considerably, scientists both within and outside the program say. This is partly because of the scarcity of funds from other sources, partly because of deliberate efforts to recruit good scientists by Moloney, Manaker, and a member of Manaker's staff, Timothy E. O'Connor. Manaker's contracts now include a number of distinguished scientists such as the group under J. Tomas August at the Albert Einstein College of Medicine ($498,000), the Hanafusa team at the Public Health Research Institute of the City of New York ($159,000), George Klein at the Karolinska Institute in Stockholm ($73,000), Fred Rapp at Pennsylvania State University ($292,000), and Sol Spiegelman at Columbia University ($800,000).

The contracts under Huebner differ from Manaker's in that many of them are viewed by Huebner simply as extensions of his in-house laboratories. The unusual arrangement of Huebner acting both as an administrator and as an active scientist is a mixed blessing. On the credit side is that he is well regarded in both roles. "The real trouble with the program is that it has only on Huebner, not five or six," says a prominent critic of the SVCP. "Huebner's contracts have been more successful because he is a good manager and because he has a very good intuition, which is important in science," this critic adds.

The disadvantage of Huebner's dual role as scientist and administrator is that he is put in the position of awarding or denying research support in a field in which he has an active personal interest. He and Todaro are felt by many scientists involved in the SVCP to be more concerned with the success of their own research interests than with the welfare of the program as a whole. "Huebner is very active at trying to get the best part of every pie. I have heard him pooh-pooh things simply because they weren't part of his program," says one SVCP contractor. Many virologists are alarmed at the "unidirectional" approach of the SVCP, or at least the Huebner-Todaro part of it, which seems designed almost exclusively to provide support for the oncogene theory, a set of ideas that have been vigorously espoused by Huebner.

The publicity-tinged style of Huebner's operation, his practice of signing papers written by contractors in far-distant laboratories (in fact contracting scientists tend to add Huebner's name to their papers on a Herr Professor basis, and Huebner does often contribute significant ideas), a recent incident in which scientists in Huebner's camp (Todaro and Aaronson) risked depriving another scientist (Rowe) of priority for an important technique, and indeed the general style of Huebner's operation, have all engendered a certain sourness toward the SVCP in academic circles. Much of the hostility caused by Huebner's domination tends to fall, unfairly, on the heads of the other administrators, "The real culprit for all this is Baker," says one scientist connected with the program.

PACE OF DISCOVERY

The flair of the Huebner-Todaro approach offers a viable and probably necessary alternative to the less *dirigste* part of the program controlled by the administrators. Nevertheless, it seems open to question, certainly by the academic community, as to exactly what the SVCP has achieved that could not have been done equally well by the grant program. Two lines of research which the Huebner-Todaro part of the program has backed heavily in the last year and a half are work on the reverse transcriptase enzyme possessed by RNA tumor viruses, which was discovered by Howard Temin and David Baltimore (neither of whom was on SVCP funds at the time, though the program supplied Baltimore with virus) and the group-specific antigens of C-type (gs) viruses first discovered by Huebner and colleagues in 1964.

Huebner states that the pace of discovery is proceeding "10 to 20 times faster than it would without the SVCP." In fact, it is probably too early to say whether the hectic pace imposed by Huebner's mehods of massed laboratory attack on a problem will really speed solutions to basic problems. For example, he and other SVCP officials claim that as a result of SVCP emphasis, "The reverse transcriptase story is worked out to an extent that would have taken 10 years under the grant program." But scientists outside the program are not so sure. Rauscher proudly claims that the SVCP made available $4.5 million of virus for researchers studying the enzyme. "It was because of this that all this terrible work appeared in the last year," says a scientist prominent in the reverse transcriptase field. Several virologists believe that under a grant program the reverse transcriptase would have unfolded at a slower but sounder pace. There seems to be greater consensus that Huebner's fantastically expensive work on viral gs antigens—to make 1 gram of antigen, which is enough to raise antibodies in ten guinea pigs, costs about $1 million—would stand little chance of being funded under a grant program and is a plus for the contract mechanism.

As for the administrators' part of the SVCP, there have certainly been successes in the past, notably the far-sighted provision for mass producing viruses before the research demand developed. The SVCP supported the work of the Henles on EB virus and mononucleosis, and SVCP contractors (including Huebner before he joined the program) helped to largely rule out DNA viruses, such as the 31 adeno-viruses (which are oncogenic in animals), as causes of cancer in man. Because of SVCP support, the number of viruses known to cause cancer in animals now totals more than 100. Yet apart from the SVCP's provision of resources, academic critics of the SVCP are not obviously wrong in claiming that nearly all of these advances could have been supported more efficiently on grants instead of the despised contract mechanism.

Administrators of the SVCP, such as Moloney, Rauscher, and Gio B. Gori, Rauscher's planning director, tend to discount all outside dissatisfaction with the SVCP by attacking the motives of their critics. Certainly the academic community harbors no natural liking for the contract mechanism and planned research of the type represented by the SVCP. But instead of trying to counter the antipathy by exposing the program to outside advice, the higher echelons of the SVCP hierarchy seem instead to have retreated to a closed world of charts and systems analyses, where cancer vaccines can be developed in five phases and three subphases. The charts, which are regarded as a harmless absurdity by the active scientists in the program, are symptomatic of the NCI administrators' divorce from reality, of their failure to provide scientific direction for the SVCP, and to straighten out its organizational confusion. But to let outside air into the SVCP, to switch some of the research-type contracts over to a grant mechanism, to start a sensible training program, and to switch more resources to basic cell biology, are approaches that seem politically foreclosed. Says a virologist close to the SVCP, "The NIH heads have tried so hard to persuade Congress that everything was ready, they are not now in a position to take the long-term view." The moonshot design of the SVCP was from the start a gamble that cancer would prove to have a short-term solution, in the form of a viral cause and a vaccine cure. But many biologists believe a longer-term view is necessary.

[From The Wall Street Journal, Monday, July 23, 1973]

WAR ON CANCER: TROUBLE IN THE RANKS

(By Jay A. Winsten)

Dr. Winsten is a research fellow in pathology at Harvard Medical School, engaged in privately financed research on the mechanism of action of cancer-causing viruses.

President Nixon's war on cancer, launched in his 1971 State of the Union address, appears to be stalled in low gear, plagued by an increasingly bitter three-way battle for control of the $500 million of federal funds appropriated for the 1974 fiscal year.

The money itself—$140 million less than the President's original program called for by 1974—is a severe disappointment to the cancer research establishment. As a result of the budget hold-down on the expanding program, the National Cancer Institute estimates it will be able to fund only 29% of the grant applications which win approval on the basis of their quality and merit, compared to 57% in fiscal 1973.

But the most heated current issue is over the type of selection process to be used in picking the research projects to fund with the federal money. At odds in this three-way fight are university scientists, the National Cancer Institute's administrators and scientists, and the policy makers in the White House's Office of Management and Budget.

One leading U.S. scientist, appointed by President Nixon to the National Cancer Advisory Board, which oversees the NCI attack on cancer, predicts a "sizable proportion" of the board's 23 members will resign if OMB succeeds in its reported attempt to dismantle the peer review system—the network of external advisory committees which brings outside scientists into NCI's decision-making process.

THE PEER REVIEW SYSTEM

The peer review system which gives the scientific establishment some measure of control over the spending of federal funds for cancer research, is under attack by OMB for allegedly promoting conflict of interest, inefficiency and decreased administrative accountability for federal dollars.

It functions through a network of advisory committees, called study sections, which are staffed predominantly by nonfederal scientists. Each study section specializes in a particular area of basic research and passes on the relative merits of grant applications submitted by independent researchers seeking NCI funding. Study sections, which have 10 to 15 members each, meet three times a year to review and assign priority ratings to the unsolicited research proposals. Members of the study sections, who serve four-year terms, are selected for their posts by federal scientists.

In an OMB memorandum made public by Sen. Edward Kennedy in May, these charges are leveled against the peer review system:

"The system does not assure administrative responsibility for the allocation of federal research funds by relying on the 'collective judgment' of consultants—the advisory committees—which are convened only three times a year.

"The process is largely reactive to the initiative, interest or whims of individual researchers and therefore is not readily compatible with targeted or directed research to achieve specific national objectives.

"The participatory process produces an unavoidable conflict of interest situation for the individual scientists who serve as consultants because they determine the allocation of research funds that they also receive."

The OMB memorandum suggests several alternatives for "improving" the peer review system, the first option being its "abolition." The memorandum states that any changes must "have the effect of lessening the control of the peer review process or of placing controls and safeguards on its operation."

Some scientists have expressed the fear that the attack on peer review is actually aimed at eliminating the grant mechanism for funding research. Dr.

Salvador Luria, the Nobel Prize-winning biologist who heads the new Center for Cancer Research at the Massachusetts Institute of Technology, warned in an interview that reliance on contracts as the sole vehicle for funding would lessen the chance for young scientists—not known to NCI administrators—to gain support. This, Dr. Luria said, "would have the effect of emasculating the vigor of American science 10 to 20 years from now."

According to NCI figures, 56% of the agency's research funds are currently channeled through the grant mechanism and are therefore subject to the peer review process. The remainder are distributed through the contract mechanism.

Contracts, which are also subject to review by external advisory committees, are awarded for the performance of a particular piece of scientific work desired by the Institute. Currently 98% of NCI contracts derive from research proposals developed by the NCI staff.

This system, too, has come under strong attack. In a still-confidential report, a committee of nonfederal scientists who reviewed NCI's plans for an intensified attack on cancer at the agency's request says the authority and influence of NCI personnel should be curbed. The researchers, selected for the study by the prestigious National Academy of Sciences, declared in their 24-page report that new ideas are "urgently" needed for the conquest of cancer, ideas which they said are not likely to emerge from a "highly centralized bureaucracy."

The scientific community is especially wary of the systems analysis, highly structured approach to research program planning that characterizes the new three-volume National Cancer Program Plan—the Institute's formal blueprint for the accelerated attack on cancer.

The plan defines seven "objectives" for the cancer program, each of which is divided into a hierarchy of "approaches," "approach elements," and "project areas." The plan sets priorities and funding levels for each aspect of the program. It is a five-year plan which will be updated every year in a report to Congress.

Critics who have seen Volumes I and II of the still-secret plan say they are disturbed by its managerial approach and what they say is its overemphasis on targeted research. One critical appraisal of a draft of these volumes was made last fall by an ad hoc committee of the Institute of Medicine, an arm of the National Academy of Sciences and headed by Dr. Lewis Thomas, president of the Memorial Sloan Kettering Cancer Center.

The committee's report states, "There is no question that certain types of investigations can be excellently managed by highly centralized planning, utilizing the style of systems analysis, but it seems equally clear that there are other important areas of science, necessary for the solving of cancer, in which these methods may not work.

"There are many types of cancer for which today's technologies simply do not work, and in which the way ahead for research is not at all clear," the report says, adding that research into these types of cancer "ought to involve rather less in the way of centralization. . . . What is most urgently needed for problems of this kind is an abundance of new ideas, and these are most likely to emerge from the imagination and intuition of individual scientists. It is much less likely that the administrators of large programs . . . at the center of a highly centralized bureaucracy can generate the kinds of ideas that are needed.

"The [plan] fails in this respect, by not explicitly encouraging and supporting the initiatives of working scientists involved in the system. It leaves the impression that all shots can be called from a central headquarters, that all, or nearly all of the really important ideas are already at hand, and that given the right kind of administration and organization, the hard problems can be solved. It fails to allow for the surprises which must surely lie ahead if we are really going to gain an understanding of cancer."

MR. CARRESE'S VIEW

Louis M. Carrese, NCI's associate director of program planning and analysis, denies that the Institute seeks to control the direction of cancer research. "We do very little without going to our advisory groups," he said in an interview. He pointed out that the plan's third volume will be submitted for review to at least four groups.

Mr. Carrese emphasized the role of nonfederal scientists in determining priorities. "In all of the work that's done under grants, the scientific community in its very process of applying, reviewing itself, and assigning priorities for payments, determines what it wants to do collectively." The peer review system, Mr. Carrese says, "has nothing to do with any federal administrators whatsoever."

But peer review may go and what will replace it is uncertain. Dr. Robert S. Stone, newly appointed director of the National Institutes of Health, is quoted in the journal, Science, as saying he and other management experts "know some things about getting scientists to work productively and about structuring research." This suggests to some observers that creative managers and planners are interested in conducting their own experiments, with scientists and the cancer program as the guinea pigs.

From the opposite side of the fence, Dr. James S. Watson, Harvard's Nobel Prize-winning biologists states the case against centralized planning: "You can't plan the conquest of cancer because you don't know what it is. You hope for unplanned observations."

[From The New York Times, Thursday, Mar. 22, 1973]

WHEN WORLDS COLLIDE: RESEARCH AND KNOW-NOTHINGISM

(By J. D. Watson)

J. D. Watson is professor of molecular biology at Harvard and director of the Cold Spring Harbor Laboratory.

It would be nice to believe that we now possess all the basic scientific facts needed for the conquest of cancer. We could then set up timetables of expected progress, hire the required hands, and confidently expect this awful scourge to disappear from the human vocabulary. The truth, however, does not fit this fantasy and despite the stunning achievements of the modern biological revolution that has revealed the nature of the gene as well as the operation of the genetic code, huge gaps still exist in our knowledge of the fundamental biology and genetics of normal human cells much less of their cancerous counterparts.

For example, we still do not have even an order of magnitude figure for the number of human genes, nor do we have any real understanding of the signals that turn them on or off. Answers, however, to these questions as well as to many other equally fundamental problems will probably emerge over the next one to two decades if we can continue the pleasantly hectic momentum of experimental biology.

Until recently there was very little doubt about the matter. The betterment of our peoples' health is clearly one of our top national priorities, and rational attacks on the many diseases that still plague us will depend upon the emergence of new facts generated by high-level fundamental biomedical research. The events of the last several months, however, leave me with much less confidence that biology will prosper over the next decade. For the message increasingly coming out of the executive branch is that science is fine as long as the payoff is fast and our nation's scientists are skillfully channeled into work on major national problems. With the dollar weak and American products not always wanted by other nations, the word is out that we are not rich enough to do science for science's sake, but only if it generates a quick return for the buck. Unfortunately, this way of proceeding, which could at first sight seem like common sense, represents a puerile understanding of both how good science is done and how its discoveries have been directed toward human application.

We must never forget that for the most part we have little insight about the truly unknown—the world we live in is immensely complicated and on the whole its natural phenomena are remarkably unpredictable. Only after a chemical reaction within a cell has been observed, do we usually find a reason for its existence. Thus it is almost impossible to plan far ahead what the future will bring. About the best we can do is to try to bring our most intelligent and sensible minds to bear on a given problem, then let them go at their own speed and direction. This is the way the hoped-for conquest of cancer should be administered. This objective all too clearly depends upon the emergence of unexpected new discoveries and so demands the talents of the very best brains this nation possesses. They will do the best job if essentially left to their own intuition, not to those of the National Cancer Institute scientific bureaucracy who, despite the best of intentions, have no special calling for the undivined.

Yet the forthcoming governmental prescription for cancer research, if not for most other forms of medical research, ominously points in the direction of more contract money, in which the Government calls the shots, and less free grant money in which the individual scientist decides where the future may lie. All too large a proportion of this contract money will go to senior established people as opposed to younger scientists who have yet to prove themselves. Yet almost every important new discovery comes from someone under 35 and who at the moment of his breakthrough is essentially unknown to the outside world and unlikely to be given a contract by a Government that looks with distaste on the unpredictable.

Even more disturbing for the long run will be the effects of the current edict to shut down all National Institute of Health-sponsored predoctoral and postdoctoral training and fellowship programs, as well as the career development awards which now support most of the better younger scientists in medically oriented research. If this threat is carried out, not only will all the money be tightly held by middleaged entrepreneurs, but the science itself will have for the most part to be done by an age group not noted for working into the night, which in the past has only rarely been innovative and so cannot now be expected to have a better track record.

I can, thus, only describe as lunacy a governmental policy that openly states the wisdom of choking off the supply of younger people into medically oriented research. One gets the horrid impression that somehow our nation is mounting mammoth crash programs to develop new "pampers"—not to conquer a collection of well-dug-in diseases against whom conventional approaches bounce off as if they were table-tennis balls thrown at concrete walls. Must the new American tradition be to lose our wars and call them victory? Is it possible that someday we will have our Government say that the real problem is not cancer or strokes or cononaries, but the scandalous behavior of the research scientists who lack the integrity to carry out the Government's wish for instant victory? For the sake of my children and their children, I hope not.

[From the Congressional Record—Senate, Apr. 18, 1973]

THE FEDERAL ASSAULT ON CANCER

Mr. NELSON. Mr. President, since enactment of the National Cancer Act in 1871, Federal dollars for cancer research have jumped from $230 million for fiscal 1971 to $432 million for 1973, with a budget proposal of $500 million for 1974. The Office of Management and Budget recently released additional funds for 1973, raising the National Cancer Institute's operating budget from $378 to $432 million.

Considerable controversy arose over the best legislative approach to increase the Federal assault on cancer: whether it should be done by an agency independent of the National Institutes of Health, with its 11 institutes; whether the emphasis should be on targeted or basic research, on contracts or grants.

The law required a 5-year plan to be drawn up, to be updated every year, for the purpose of coordinating the national cancer research effort. It was a unique concept for biomedical science, in that systems analysis was to be applied in an effort to organize a concerted cancer attack.

The plan, although apparently drawn up in three sections, has not yet been released, apparently held up in the Office of Management and Budget, and the controversy still rages over the best approach to cancer research.

The National Institute of Medicine, an institute of the National

Academy of Sciences—NAS—was asked by the National Cancer Institute to comment on the cancer plan.

A panel of nine, headed by Dr. Lewis Thomas, dean of the Yale University Medical School and incoming president of the Memorial Sloan Kettering Cancer Center in New York, prepared a critique of the cancer plan, which was completed in December 1972.

I ask unanimous consent that the panel report be inserted in the Record following these remarks, along with several news articles describing the panel's report and the still-unreleased cancer plan.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE NATIONAL CANCER PROGRAM PLAN

I. INTRODUCTION

The National Cancer Program and the Five-Year Plan for its implementation were mandated by Congress in order to accelerate the attack on cancer. The underlying intention of the legislation, which is reflected in the design of the National Cancer Program Plan (NCPP), was to make certain that all leads toward the prevention and cure of cancer—leads currently recognized as well as those still undiscovered—be promptly and systematically pursued, and, as new successful measures become available for prevention or treatment, that these be made available for application by the nation's health care system as rapidly as possible. These objectives have had the overwhelming support of the Congress, the American public, and the President.

This Review Committee was appointed in September, 1972, by the Institute of Medicine of the National Academy of Sciences in response to a request by the Director of the National Cancer Institute that the Academy review the NCPP. Our charge has not been very explicit; we were asked to consider whether the plan is sufficiently comprehensive, balanced and clearly conceived to meet the intended objectives, assuming, of course, that it is skillfully administered. The present report is intended to serve as a preliminary overview of the plan, not as a detailed analysis of its scientific content.

It is essential that the limitations of the scope of this review be stated plainly at the outset. It is by necessary a preliminary review, since the complete, final version of the NCPP itself is not yet available; Volumes I and II have still to be reviewed in depth by the National Cancer Board and Panel, and these bodies may choose to revise the document. Moreover, Volume III, which deals with curcial matters of administrative implementation and management of the plan, is still in the process of preparation by the NCI staff and has not been available to this Committee.

For these reasons, and with these reservations, the present review is limited to a consideration of several key issues raised by the NCPP. For some of these, we believe that further clarification of the text of the plan may be needed in only a few instances do we disagree with what we interpret as the substance of the plan.

It can be stated that the Committee endorses the general intentions of the NCPP, and commends the comprehensiveness and thoroughness which have gone into the construction of the plan. We are impressed by the skill with which the plan has succeeded in organizing, conceptually, a stupendous mass of biomedical scientific material, even though we have reservations concerning the framework within which the study was conducted and the material organized.

II. THE PLAN

Two volumes were available for review, the most important of which was Vol. II, part 1, *The Strategic Plan* which essentially outlines the research and operational strategies of the Plan. This document sets forth seven objectives which, though arbitrarily conceived, present a reasonably comprehensive and cohesive framework for understanding what is presently known about cancer. Four of the seven objectives apply to the complex and extremely difficult long-range search for the causes of cancer and methods for its prevention. The remaining three objectives are concerned with detection, therapy and rehabilitation, recognized as more short-term objectives, and perceived to become less important as information regarding the causes and prevention of cancer emerges. To achieve these major objectives, the plan presents an elaborate, structural hierarchy of lesser objectives: there are multiple "approaches" around each objective, multiple "approach elements" for each approach, and multiple "project areas" for each approach element. The ordering of the structure is conceptually that of systems analysis, and it is evident that the input of the 250 participating scientists was fitted into this framework.

Volume III, the *Program Operating Plan*, has not been completed and is therefore not available at the time of this review; as stated above, it is recognized by the Committee as probably the most critical portion of the Plan, for it intends to set out the "monitoring," "coordinating" and "implementing" features of the National Cancer Program.

By virtue of the comprehensiveness and quality of information (inputs of 250 outstanding scientists) contained in the seven major objectives, the NCPP, including the operations research "wheel," provides a good instrument for reporting the present national effort in cancer research to the Congress and the Public, and for monitoring the progress made under the National Cancer Act.

There has been some disagreement within the committee concerning our understanding of the basic intent of the NCPP. In the view of some of us, it is not intended to make a major revolutionary shift in the method of programming the wide variety of scientific work which is now done primarily on the initiative of scientists in universities and independent research institutes, but rather to lay out a total inventory of scientific areas to be covered in order to assure that no area of importance is either neglected or underemphasized from want of initiative from existing institutions. In short, it provides an assurance that nothing falls between the cracks, and that leads which hold high promise will be exploited more promptly and thoroughly than they would if no such plan were in existence. On the other side, some of us believe that the systems analysis approach may represent the underlying philosophy of the whole program, and may be extensively used, even become the predominant mode of research management. In particular, we are concerned lest the categories established in the "wheel" become rigid budget categories, which then establish correspondingly rigid priorities. There is no question, of course, that certain types of investigations can be excellently managed by highly centralized planning, utilizing the style of systems analysis, but it seems equally clear that there are other important areas of science, necessary, for the solving of cancer, in which these methods may not work. This matter is considered in the section which follows.

III. THE CENTRALIZATION ISSUE

The NCPP tends to give the impression that all cancer research is pretty much the same sort of activity, and that all of it can be run on highly centralized basis, with "targeted" programs throughout; the way ahead is uniformly clear, and all needed lines of research can be clearly envisioned in an orderly progression. This impression is perhaps unintended, since the NCPP itself, in the introductory section of Vol. II, discusses the major dilemma of cancer, which is that so much of the crucial biological information, needed for solving most varieties of cancer, is totally lacking.

It seems to us that human cancers can be classed under two principal headings, depending upon the relative effectiveness of the therapeutic technology which is either available today or likely to be developed in the near future. The terms *Feasibility* and *Prefeasibility* can be used to indicate the two major sets of problems.

Feasibility denotes the current situation in the prevention and cure of the kinds of cancer in which a highly effective, decisive technology is at hand, with real prospects for its continuing development. In this category belong acute childhood lymphatic leukemia, Hodgkin's Disease, certain other lymphomas, choriocarcinoma, Wilms' tumor, carcinoma of the cervix, and some types of skin cancer.

Prefeasibility denotes the situation for the kinds of cancer in which today's therapeutic technology is unsatisfactory, with little or no evidence of progressive improvement in recent years, and no immediate prospect for change unless some completely new information becomes available. This group includes most of the solid malignancies of adult life, including cancer of the brain, breast, lung, gastrointestinal tract, liver, and bone. This is not to say that all of these represent hopeless problems today; indeed, as the NCPP points out, there are effective things to be done for many on this list, especially when they are detected early, but they share in common an unacceptably high mortality and a general lack of discernible prospects for major change in the immediate future.

Basically, the success of today's technologies depends largely on whether all the neoplastic cells in a particular cancer can be extirpated. The remarkable success in the treatment of cervical cancer is due to the relative ease with which this tumor can be detected early and completely removed by surgery in the majority of cases. The rapidly dividing cells of acute lymphatic leukemia are especially vulnerable to chemotherapeutic drugs, and can be chemically extirpated. For these and a limited number of other cancers, there are highly effective forms of treatment, with excellent prospects that further improvements will be achieved within the near term by accelerated research. Moreover, the direction which this research should take is reasonably clear. The work can best be done if the investigators are centrally organized, with general agreement as to who will be doing what, and when.

The situation in the *Prefeasibility* group of cancers, which actually comprise the considerable majority of human cancers, seems to us altogether different. For example, glioblastoma multiforme, a common neoplasm of the brain, is essentially incurable; it is not cured by surgery even when detected very early, nor is its growth reversed by irradiation or chemotherapy. Currently, something between 20 and 30% of women with breast cancer (the actual figure is arguable) will die from this neoplasm regardless of when it is detected and what form of therapy is used. The mortality from bronchogenic carcinoma of the lung is extremely high, and today's treatment is almost entirely unsatisfactory. And so on. There are many types of cancer for which today's technologies simply do not work, and in which the way ahead for research is not at all clear.

We suggest that the organization and management of research on cancer in the *Prefeasibility* area ought to involve rather less in the way of centralization, and rather more of a tendency toward decentralization. What is most urgently needed for problems of this kind is an abundance of new ideas, and these are most likely to emerge from the imagination and intuition of individual scientists. It is also demonstrably true that when groups of scientists are well organized in collaborative, cross-disciplinary research they can provide a rich source of imagination and new ideas. But it is much less likely that the administrators of large programs, or committees of administrators, at the center of a highly centralized bureaucracy, can generate the kinds of ideas that are needed.

It seems to us a defect of the NCPP that the enormity of our ignorance about cancer receives less emphasis than it merits. Much is said about the lines of research that appear most promising today—virology, cellular immunology and genetics, for example—but too little acknowledgement is made of the genuine possibility that any or all of today's leads, including all of those proposed by the 250 scientists in the Airlie House Conference, could turn out to be the wrong leads.

The NCPP fails in this respect, by not explicitly encouraging and supporting the initiatives of working scientists involved in the system. It leaves the impression that all shots can be called from a central headquarters, that all, or nearly all, of the really important ideas are already in hand, and that given the right kind of administration and organization, the hard problems can be solved. It fails to allow for the surprises which must surely lie ahead if we are really going to gain an understanding of cancer.

The Committee believes that this defect may be less real than it appears, and that it may in fact be largely a problem of language interpretation. The plan certainly leaves open the possibility of flexibility in management, and makes it clear that much of the science can be done with decentralized instrumentalities, by individuals and groups working independently in institutions supported by one or another variant of the grant-in-aid mechanism. It is obvious that a balance of some sort must be struck between total reliance on a centrally managed scientific plan, which is perhaps appropriate for the development of leukemia chemotherapy, for example, on the one hand, and total reliance on completely decentralized, autonomous instrumentalities on the other. From our reading of the plan, we share the impression that the NCPP pushes the balance too far in the direction of centralized scientific planning and imposes too great a risk of bureaucratic rigidity. If, as we hope, this is not the intention of the NCPP, the impression could be rather easily dispelled by some changes in language.

IV. THE ISSUE OF BASIC RESEARCH

In this section, we intend to avoid the conventional doctrinal dispute over which is better or more productive in the short or long run, "pure" or "basic" research without a recognizable target, or "applied" research directed toward a clear, approachable objective. This is not the issue here. The NCPP provides for an abundance of research fields, some at the most profound levels of modern biology, and the documents contain sophisticated presentations of the need for new information from such fundamental sources.

What we mean by basic research, in the present context, is the sort of research which is, to begin with, important for the cancer problem, but is done by investigators who are not labeled as cancer researchers, not based in departments or institutions concerned with cancer, and who may not even recognize that their research preoccupations are relevant to the cancer problem. Such scientists may fail to obtain support under the new cancer initiative simply because their research applications will never reach the NCI through the present NIH system.

This is really a technical problem, not an argument about policy. The NCPP presents with admirable emphasis the need for new knowledge in certain specified fields for biomedical science: cell biology in general, virology, immunology, and so forth. At this level, it makes little difference whether an investigator recognizes himself as a cancer scientist or not, provided that his work is penetrating, sophisticated and of high quality. It would be a dead loss to the cancer effort if research of this kind were to go without support because of fund shortages in the other institutes of NIH—The Institute for General Medical Science, for example, which is chronically underfunded.

What is needed is some better sensing mechanism within NIH for the recognition of the basic science projects which are essential for the ultimate success of the cancer program. Obviously, the totality of biological science cannot be supported by the cancer program. Our suggestion would be for the NCI to prepare a formal listing of the science areas considered to be relevant, regardless of the title of a project or the individual scientist's orientation toward cancer. Such a finite and relatively precise list might, in fact be lifted straight out of the NCPP itself, with a few modifications. We would propose the following areas: *DNA replication, the cell cycle, regulation of transcription, regulation of membrane assembly and function, cell differentiation, regulation of protein synthesis*, and all aspects of *cellular immunity*. Research along these lines should be supported with cancer funds irrespective of the cancer-orientation of the investigator or his institution, and irrespective of the systems used in the research (i.e. eukaryotic or prokaryotic cells, normal or cancer cells, virus or bacteriophage, etc).

The list should be regarded as flexible, subject to additions or changes depending on the progress of cancer biology itself. To give an example, a few years ago very few people recognized that the delineation of the cellular immune mechanisms in homograft rejection had opened a productive and relevant area for cancer research. The NCPP should possess sufficient flexibility and agility so that new fields with this sort of promise can be recognized early, and developed quickly.

V. THE ISSUE OF CANCER CONTROL AND HEALTH CARE

The text of the NCPP is in need of some clarification with respect to the meaning and content of Cancer Control, which is one of the assigned responsibilities of the National Cancer Program under the Act. This part of the program, and the clinical programs envisioned for the Comprehensive Cancer Centers should be differentiated from the ordinary day-to-day requirements for clinical care which cancer imposes on the nation's health care system as a whole.

In its present form, the NCPP could easily be misconstrued as a plan for a *total* attack on cancer, including the treatment of all cancer patients, which would imply a capacity to deal with the enormous problems of inefficiency and inequity now confounding the health care enterprise throughout the country. It is obvious that the NCI was not assigned such a mission, and is in no position to carry it out if it were. The NCCP is a research plan, not a program intended for implementation of the nation's health care delivery system. It seems to the committee most important that this point be made expicitly and abundantly clear in the NCPP itself, perhaps with a recommendation that such a total strategy be developed under the leadership of HEW, but not in NCI. The Secretary of HEW has under his supervision other agencies of government which spend vastly more in health activities than all of NIH combined—the Social Security Administration (Medicare), the Social and Rehabilitation Service (Medicaid), and the Health Services and Mental Health Administration.

If the Congress and public were to conceive of the NCPP as a total plan designed to mobilize all the institutions, professional practitioners and technicians of our society into a coordinated and rationalized "War on Cancer", it seems unavoidable that the outcome would be the deepest disillusionment. An attempt to define as clearly as possible the limits of this mandate should be part of NCPP.

On the other hand, even under the limited mandate of Cancer Control, providing for research and demonstration but not general health care, the program presents great opportunities for the NCPP. Thus, improvements in today's methods for the education and training of all the health professionals in the cancer fields, technicians, nurses and physicians, would inevitably result in an upgrading of the quality of cancer care. Similarly, there are obviously high stakes in new programs for the education of the public.

If, as an early outcome of the NCPP, the country were to be provided with significant numbers of health professionals, trained in the use of specialized techniques and facilities, this would surely be recognized as a valuable product, solid and highly visible. It is in the Control Program, particularly the activities related to cancer detection, diagnosis and therapy, that the plan offers the greatest promise, in the short term, of decreasing cancer morbidity and mortality. In this area, targeted research is justified. There is, however, considerable ambiguity, and therefore some confusion, in the presentation of this program in the NCPP. It needs more emphasizing that this activity will require high standards, rigorous research and evaluation and careful, detailed planning, if th emethods of bringing today's technology to the detection, diagnosis, treatment and rehabilitation of cancer patients are to be improved.

VI. THE ISSUE OF GRANTS VS. CONTRACTS

In a sense, this problem really lies beyond the scope of the Review Committee, since the available volumes of the NCPP contain no detailed presentation of future policy on the relative use of grant or contract mechanisms; it is possible that further information on this point will be contained in the still-unfinished Volume III.

However, the issue has continued to arise throughout our discussions, particularly in connection with the problem of balance between Centralized and Decentralized planning. It is our view that the need for balance between grants and contracts is a part of the same problem, and we therefore wish to make the following comments.

The NCI is unique among the institutes of NIH in its extensive use of contracts (50% or more of its funds) for carrying out its scientific mission. The reliance on contracts has been steadily increasing in recent years, and there is apprehension within the scientific community that if this trend continues, the traditional project grant system for the support of research programs generated spontaneously within the scientific community and adjudged by peer review may be virtually supplanted by the contract mechanism. The arguments in favor of contracts are chiefly administrative: the initiatives for research come out of the central planning authority, there is more efficiency in the control and coordination of research programs and decisions can be implemented with greater speed. In recent years, the contract mechanism has been used rather widely by NCI in extension of its own, intramural scientific activities, some of these involving quite basic (rather than applied) research programs. This practice has been criticized publicly on the grounds that the peer review system, which sets the standards of scientific quality elsewhere in the research support system, is not applied with the same rigor and visibility in the contract program.

The NCPP should deal more explicitly with this problem, and ought to provide new guidelines for the situations in which grants or contracts will be the mode of research support. The review Committee believes that a balance between these mechanisms must be established and maintained.

There are particular kinds of research and development for which the contract system is ideally suited, principally in the *Feasibility* area. These would include large-scale testing or confirmation of therapeutic concepts, or the accumulation of large-scale epidemiologic information, or the rapid and efficient procurement of certain products needed for research (virus stocks, cell lines, enzymes, special isotopes, animal lines, new instruments, etc.). There is need, however, for a more effective, generally visible, and uniform review process for the regulation of the contract system in order to assure standards of excellence throughout.

The grant-in-aid system, with open competition among scientists and peer review by scientists, should be retained and strengthened by the NCPP. These mechanisms, which have grown to the stature of established traditions over the past two decades, are held in high regard and trust by the scientific community; it is general belief that they work well for the benefit of science. Measures must, however, be devised to increase the efficiency and speed of the project grant system. Very likely, there will continue to be a trend toward larger and more comprehensive projects, on the order of today's "program-project" and "center" grants. The committee believes that consideration should also be given to even larger packages, in the form of total institutional support ("institutional agreements") for cancer research programs. This trend toward grants of larger scale serves to stimulate more coordination and collaboration between scientists from different disciplines in the same institution, and seems to us both timely and desirable.

The role of the in-house scientific staff of NCI in decisions about research on the national scene, particularly with respect to contracts, has been actively discussed by the Review Committee. We do not have a single point of view about this complex issue. It is, on one hand, clearly beneficial to have a high degree of scientific expertise immediately available for participation in policy decisions. On the other hand, there are obvious risks for the future in assigning excessive authority for decisions affecting the national course of science to a relatively small group of investigators, with their own favorite ideas about the way to go.

Two members of our Committee have suggested that the "intramural research NCI" should be separated from the "administrative NCI", and one has proposed that the intramural scientific effort should compete for its budget with other cancer institutes and centers across the country. We are agreed that the mechanisms for continuing external review of the in-house NCI research programs need considerable strengthening. The issues are complicated, and it is hoped that a future version of the NCPP will give consideration to the problems raised.

VII. THE ISSUES OF INSTITUTIONAL STABILITY AND INSTITUTIONAL DIVERSITY

Apart from NCI itself, the principal resource to be generated by the NCPP is the national network of medical schools, universities and independent cancer institutes. Many of these institutions are currently under severe financial strain, particularly the country's medical schools, and the continuing stability of these institutions presents a serious problem. Obviously, the National Cancer Program cannot be regarded as a new source of fiscal stability, but some thought must be given to the possible hazards of increased stability as an effect to the NCPP. The institutions will be required to increase their research staffs, and new buildings will be constructed to house the facilities for expanding research. Thus, the institutions will be taking on new, long-term commitments for faculty support and plant maintenance, without a corresponding assurance of long-term continuity of outside support. The NCPP does not deal adequately with this general problem.

The Committee does not have any global solution of its own. The problem of faculty support might be alleviated, to some extent, by a considerable expansion of long-term, renewable stipends along lines of today's Career Development Awards. Perhaps an entirely new program of Senior Fellowships should be devised. The Career Award program, once adopted by NIH but then quickly terminated, should be reexamined for its possible usefulness at this time; the experience of the American Heart Association and American Cancer Society with tenure investigatorships would indicate that this method of recruiting and retaining distinguished scientists is a good one.

The financial dilemma of the medical schools, as institutions, poses genuine hazards for the future success of the National Cancer Program. These institutions will be placed under new stress because of the present requirement for matching funds for the construction of cancer facilities, and they face even greater demands for the future maintenance of these facilities. It might be well to consider a greater degree of flexibility in the requirement for institutional contributions to such facilities, and some better ways to guarantee long-term support.

The Committee discussed the possible advantages of the British Medical Research Council Units, as one way to relieve the financial pressures on institutions. Under this mode of operation, the government would assume total, long-term responsibility for the construction, staffing and maintenance of new facilities in the universities and medical schools. Some experimentation along this line should be considered for the future.

We believe that the critical importance of institutional diversity does not receive sufficient attention in the NCPP. We believe that there will be an increasing need for the widest variety of institutions, ranging from small clusters of individual scientists to huge, coherent organizations totally devoted to cancer research. In many instances such institutions ought to have considerable autonomy, even if their research directions are inconsistent with the views of the central planners. Ways must be devised to foster the development of this diversity, and, at the same time, to encourage coordination of their collective efforts and, above all, to assure that the atmosphere in each will stimulate good science.

VII. THE ISSUE OF RESEARCH TRAINING

The NCPP perceives the urgent need for more professional manpower during the next decade, if the mission of a major expansion of the national research effort in cancer is to be successful. It is obvious that this will require a considerabe expansion of training programs to produce the scientists needed for the future. The only arguments are around the question as to what kinds of training programs, for what kinds of scientists.

Here, as in our consideration of other problems in the NCPP, it seems useful to resort to the *Feasibility—Prefeasibility* categories. For ongoing and future research in the *Feasibility* area there will be increasing needs for professionals at all levels. The field of cancer detection will require technical manpower for various cytological, biochemical and raliological procedures. The disciplines of surgery, radiation therapy, anesthesiology, pharmacology, medical oncology and rehabilitation medicine will need more trained specialists and more technical support. The expanding field of chemotherapy, with the increasingly complex technological requirements involved in patient care, will require its own cadre of specialized personnel. Training programs for these purposes are probably best located in the institutions dedicated primarily to cancer research; the proposed Comprehensive Cancer Centers should be of great value for this mission.

There is, however, another important area of manpower need for which training programs must be provided on an amplified scale, and for which the optimal locations for training may be quite separate from cancer research units. As has been pointed out in the NCPP, and in an earlier section of this review, there are a number of basic science areas on which the future of cancer research may very well depend—*molecular genetics, cellular immunology, membrane regulation*, etc. The NCPP does not make provision for training programs in such areas. Indeed, the scientific areas recognized in the present version of the plan seem extremely limited; pharmacology heads the list, followed by chemistry and epidemiology, but there is no mention of the equally urgent needs for training in other fields of basic science.

It must be recognized that some of the best opportunities for training at this level may be in departments of medical schools and universities which are not themselves committed to cancer research. This must be faced squarely, and training programs in such areas must be supported. The solution to the cancer problem may require, at some future date intensive research by scientists skilled in problems dealing with cellular immunology or cell membrane assembly, for example, and it is mandatory that the training of such people be started now, in the laboratories where the best work in these fields is currently in progress.

The committee believes that training for cancer research should also involve some exposure to broader aspects of the cancer problem, and it will be important to encourage the development of interdisciplinary collaboration in training. Wherever possible, clinical and basic science trainees should have opportunities to interact with each other; ideally, research trainees should be exposed to problems in human cancer during their period of training in a particular area of basic science.

IX. THE ISSUE OF CONTINUING REVIEW OF THE NCPP

The President's Cancer Panel and the National Cancer Board should have a strong and continuing policy input into the way the NCPP is implemented. This should include their involvement in the preparation of the annual report and renewed 5-year projections, and their supervision over all major operational decisions of the NCI. It is foreseeable that when a breakthrough occurs that might shift the focus of the program within the seven major objectives, readjustments of the allocations scheme among these objectives will become necessary.

When this takes place, the NCPP (Vol. 11, 5.2.2.) provides that the NCI may make "additional investments . . . whenever warranted by significant opportunities and leads", and may also "reduce investments whenever warranted by factors such as completion of the work, achievement of sufficient information, change in priorities due to shifts in the scientific base, etc."

When budget readjustments are minor, they should probably be made by administrative action in NCI. However, when these trade-offs involve alterations of strategy of significant magnitude, the Panel and Board should provide oversight. We assume that this will be the case, but we believe that the provision for Panel and Board involvement in NCI decisions, at all crucial operational stages, should be more explicitly stipulated in the text of the plan. In effect, this assures the participation of "outside" reviewers, with a primary responsibility for determining that there has been a major breakthrough, and that intensive exploitation and a shifting of funds are appropriate.

There may be a need for another kind of periodic "outside" review by a highly competent group, completely extramural to NCI, with enough time to conduct site visits to NCI headquarters and to selected institutions in which major investments are being made by NCI. The individuals chosen to carry out such periodic operational reviews should represent a variety of backgrounds and skills. We are not prepared to recommend how they should be chosen, nor to stipulate their functions in detail, but we are unanimous in the view that formal mechanisms for such review should be established.

[From the Washington Post, Apr. 17, 1973]

CANCER PLAN ACCUSED OF STIFLING CREATIVITY

(By Stuart Auerbach)

In a still secret report, the National Academy of Science's Institute of Medicine says a government plan to conquer cancer will stifle the scientific creativity needed to find cures for the disease.

The institute report accuses the federal cancer planners of trying to direct all research from Washington when what is really needed "is an abundance of new ideas . . . (that) are most likely to emerge from the imagination and intuition of individual scientists."

The plan on how to conquer cancer, the institute report says, "leaves the impression that all shots can be called from a central headquarters; that all, or nearly all, of the important ideas are already in hand, and that given the right kind of administration and organization, the hard problems can be solved.

"It fails to allow for the surprises which must surely lie ahead if we are really going to gain an understanding of the cancer."

The report, requested by the National Cancer Institute, was written by a nine-man committee of cancer experts headed by Dr. Lewis Thomas, dean of the Yale University Medical School and the incoming president of the Memorial Sloan Kettering Cancer Center in New York.

Specifically, the committee looked at the first two volumes of the National Cancer Program Plan required under an 18-month-old law setting up an intensified national war on cancer.

The plan itself is long overdue and sources say it is undergoing revision by the White House's Office of Management and Budget.

Louis Carrese, who developed the plan for the National Cancer Institute from the recommendations of 250 scientists, said "a lot of changes" were made as a result of the Institute of Medicine review.

Carrese, a systems analyst who is trying to use that process to direct biomedical research acknowledged that some members of the committee "will think we didn't make enough changes."

He denied that the plan aims to control all cancer research from Washington and said that "quite a few word changes—jargon changes—that were worrying the committee" should erase the impression.

Although the Institute of Medicine report says that some of the plan's "defects" can be corrected with language changes, it points to a more substantive problem in the way science should be managed.

"The National Cancer Program Plan," the committee says, "pushes the balance too far in the direction of centralized scientific planning and imposes too great a risk of bureaucratic rigidity."

Moreover, the committee says that the cancer plan doesn't place enough emphasis on "the enormity of our ignorance about cancer."

"Much is said about the lines of research that appear most promising today—virology, cellular immunology and genetics, for example—but too little acknowledgement is made of the genuine possibility that any or all of today's leads . . . could turn out to be the wrong leads."

Many of the new leads for curing cancer, the Institute of Medicine committee feels, will come from scientists not in the cancer field—indeed from scientists "who may not even recognize that their research preoccupations are relevant to the cancer problem."

"Such scientists may fail to obtain support under the new cancer initiative simply because their research applications will never reach the NCI through the present National Institutes of Health system."

This point is especially important now since President Nixon has cut the budgets of all the institutes at NIH with the exception of his two favored health projects—cancer and heart disease.

The National Institute for General Medical Science, the committee report points out, deals with basic research that could have important implications for cancer. This institute is chronically underfunded.

"What is needed," the committee says, "is some better sensing mechanism within NIH for the recognition of the basic science projects which are essential for the ultimate success of the cancer program."

The committee says that research involving the replication of genetic material, the behavior of cells and the way their membranes are assembled, the synthesis of proteins and cellular immunity should all be supported with cancer funds.

The committee report also calls for the continuation of the grant system, where scientists receive funds for research projects that are judged by other scientists, over the hiring of labs for specific projects under contracts.

It also opposes the cutting of training grants, as proposed by President Nixon in his 1974 budget. These grants, it is asserted, are needed to insure the continued flow of scientists into research.

[From the Boston Globe, Mar. 7, 1973]

NOBEL WINNER CALLS NIXON'S MEDICAL RESEARCH POLICY "LUNACY"

(By Richard Knox)

WASHINGTON.—Prof. James D. Watson, the Nobel Prize-winning Harvard biologist, yesterday told the U.S. Senate Health Subcommittee that the newly launched Conquest of Cancer effort will be "a massive fraud" if the Nixon Administration implements its plans for the spending of medical research funds.

The mild-mannered scientist, whose discoveries of the structure of the DNA molecule made most modern cancer research possible, used the word "lunacy" to describe the Administration's research spending plans.

Delivering the strongest statement heard thus far against the government's National Institute of Health budget proposal, which was revealed January 29, Watson focused his criticism on two policy decisions:

—A cutback of basic laboratory research in favor of "targeted" research designed to apply what is already known.

—A plan to eliminate all Federal support for training new biomedical researchers, on the assumption that young scientists-in-training should find support elsewhere.

Taken together, Watson said, these decisions will insure that additional funds will be wasted rather than leading to the hoped-for cancer conquest.

"Must the new American tradition be to close our wars and call them victories?" Watson asked. "Is it possible that someday we will have our government say that the real problem is not cancer or strokes or coronaries but the scandalous behavior of research scientists who lack the integrity to carry out its government wish for instant victory."

Watson's testimony capped a day of hearings, chaired by Sen. Edward M. Kennedy, which featured criticism of the government's biomedical research policy by Dr. Michael de Bakey, the Houston heart surgeon and Dr. Lewis B. Thomas, dean of Yale medical school. The Administration's side will be presented tomorrow by Casper Weinberger, Secretary of Health, Education and Welfare.

Watson, one of the foremost investigators of a possible cancer-virus link, said that the Administration has a "puerile understanding of both how good science is done and how its discoveries have been directed toward human application."

He argued that "targeted" research, "in which the government calls the shots," ignores the fact that "most research advances have resulted from allocating grant money in which the individual scientists decides where the future may lie."

"All too large a proportion of this contract money will go to senior established people as opposed to younger scientists" added Watson.

"Yet almost every important new discovery comes from someone under 35, who at the moment of his breakthrough is essentially unknown to the outside world, so is unlikely to be given a contract by a government that looks with distaste on the unpredictable."

Watson was 25 when he did the work on DNA structure that won him the Nobel Prize along with Francis Crick and M. H. F. Wilkins.

The elimination of training grants, post-doctoral fellowships and career development awards (which allow young scientists to pursue their own leads), Watson continued, will lead shortly to a shortage of creative young scientists with the stamina needed to devote themselves entirely to basic research.

"All the money will be held by middle-aged entrepreneurs," he said, "but the science itself will have, for the most part, to be done by an age group not noted for working into the night."

Likewise, Watson added, under questioning by Sen. Kennedy, the Administration's assumption that young scientists can find money elsewhere to be trained will lower the quality of research and shorten the span of creative years in which they can devote themselves solely to science.

"Young researchers will have to work their way up through science," he said, "and you can't do good research after driving a cab for eight hours."

Watson said that "not one of my colleagues believe the Administration is following the proper course in spending cancer research funds, but most "don't have the fight in them."

"You mean they think the government is saying, in effect, 'be quiet or you'll get cut even more?' " asked Sen. Kennedy.

"Yes," answered Watson. "They have the feeling that this isn't the time to speak out."

Watson is a member of the National Cancer Advisory Board, which is supposed to advise the President on how to spend Conquest of Cancer funds.

However he said that policy decisions are being made elsewhere. "The advisory board is not a body that's ever going to be a cohesive group," he said. "They'll just hand out press releases for five years about how great everything is going."

[From the Science magazine, Mar. 30, 1973]

NATIONAL CANCER PLAN: THE WHEEL AND THE ISSUES GO ROUND

(By Barbara J. Culliton)

The national cancer plan may soon be released; then again, it may not. The people at the National Cancer Institute (NCI) who are in charge of such things say that they would like to make the plan public as soon as possible. There are two problems.

The first seems to be that the people at NCI are not really in charge at all. People in the Office of Management and Budget (OMB) and in the White House are. Strictly speaking, the National Cancer Program Plan is a document the NCI submits to the President, who will then transmit it to Congress. The word is that certain OMB staff members are unhappy about parts of the first two volumes of the cancer plan and their unhappiness is forcing a delay. This is hard to prove one way or the other because OMB people will not talk about such things. However, it is certain that, without their approval, the NCI cannot make its plan public. When OMB and the White House are ready, they will release it.

The second problem in getting the cancer plan into the open, so that the entire scientific community can see for itself what the cancer crusade is all about, is that the third volume is not exactly finished yet. This is the volume that NCI leaders say is the most important because it will tell how the cancer program is going to be run, not just this year, but for the next 5—a 5-year plan to be updated every year. Louis Carrese, associate director of NCI for program planning and analysis, describes the third volume as an "operating document, perhaps a manual." It will be completed soon, but that does not mean that it will be available to the public soon. It, like volumes 1 and 2, will have to wend its way through channels.

The cancer plan is a unique document in biomedical science, in that it is a tangible expression of this country's first attempt to wipe out a disease through a coordinated effort on a national scale. The sheer magnitude of the program for the conquest of cancer is unprecedented in biology.

The national crusade against cancer is grounded in the belief that cancer is susceptible to an organized attack. This presumption troubles many scientists today, as it has from the beginning. Their conviction that there is a lot of science that just cannot be targeted simply will not go away. The expectation that the cancer crusade would be backed by virtually unlimited money is also proving to be a troublesome presumption. Although it is perfectly true that there is more money for cancer research than for any other kind, it is apparently not true that the coffers of the NCI are overflowing.

As of this writing, the NCI is still operating with $378 million—its budget level for fiscal 1972. There is talk of a special presidential action to raise the level for 1973 to $432 million, as originally planned, but it has not happened yet. Meanwhile, of course, those anticipated extra funds are not available.

Thus, the situation is not an entirely happy one. The story of the cancer plan is, in ways, a reflection of the ups and downs within the national cancer program as a whole.

PLAN IS FOR EVERYBODY

In a recent interview with *Science*, Carrese talked about the plan. Whom is it for? For everybody. The plan, he says, is supposed to be "meaningful" to the lay public, the Congress, the scientific community, and the people in the OMB. At its heart is a single goal—"Develop the means to reduce the incidence, morbidity, and mortality of cancer in humans." To achieve it, the NCI has laid out seven objectives, which "reflect the aspects of the disease in man." The first is cancer prevention; the seventh is rehabilitation of the cancer patient. The others range from basic research to therapy. To achieve each objective, there is a series of "approaches"; for the approaches, a set of "approach elements," and, to refine the task further, a host of 'project areas." It is at the level of a project area that actual research comes in.

Carrese emphasizes again and again that one of the most extraordinary features of the plan is its authorship. Out of a pool of 1000 scientists, the NCI asked about 250 to meet in small groups to decide what the cancer plan should say. From meetings held at Airlie House, a retreat in the Virginia countryside, they generated 40 reports, each of which talked about cancer from a different angle. From these, Carrese and his staff, with the advice of the chairman of the various groups, put the plan together.

The first steps for the creation of a national cancer plan were taken in the fall of 1970 by Carrese and Carl Baker, who was then the director of NCI. Groups of scientists first began meeting in the late fall of 1971, so by the time the National Cancer Act of 1971 became law that December, the foundations of the master plan had already been laid. (The law required that there be a plan, as Carrese and Baker anticipated.)

Carrese is adamant about the flexibility of the cancer plan. "Its purpose is not to direct daily research; nor is it meant to exclude new ideas." Nevertheless, a lot of the people who have had access to the plan or who have heard a lot about it are pretty uneasy. Certainly one reason for this is that the plan, to a large extent, is written in the jargon of a systems analyst.

Carrese is a systems analyst who has made a career of trying to adapt the traditional concepts of systems analysis to the process of biomedical research. He and Baker shared the view that systems analysis could be appropriately modified, and, in the April 1967 issue of *Management Science* they described their approach in a paper entitled, "The Convergence Technique: A Method for the Planning and Programming of Research Efforts." "Planning," Carrese says, "is not strange to science. Some of the most detailed plans are called experimental designs. I don't know a single scientist who arrives at his lab not knowing what he is doing."

According to Carrese, the cancer plan not only lays out the scientific and medical problems to be solved but does so in a way that allows administrators to know at a glance what is going on. He points out that the plan is designed to have "something for everybody" and that what you see in it depends upon how you look at it. In that regard, he says that he can look at it and tell in dollars and square feet of space how much effort is being committed to research on cancer prevention, causation, or rehabilitation.

To make the whole thing graphically clear, the plan has been drawn up in the form of a wheel that sets out the objectives and approaches of the cancer program. It hangs on the wall in dozens of laboratories and offices throughout the National Institutes of Health (NIH) and, depending upon the wall, is meant to be taken quite seriously, or, alternatively, as pop art.

The systems analysis approach, so foreign to most scientists, bothers many of them, and there is growing concern that the emphasis on supporting only those things that fit into the cancer *program* will lead to unhealhty rigidity. NCI officials, of course, insist such fears are foolish.

One "official" reaction to the first two volumes of the cancer plan comes from a committee of the Institute of Medicine, a part of the National Academy of Sciences. (The NCI asked the institute to review the plan last summer.)

Under the chairmanship of Lewis Thomas, who has recently resigned as dean of medicine at Yale to become president of the Memorial Sloan-Kettering Cancer Center in New York, a committee of nine[1] spent moest of their fall weekends conducting the review in order to meet a crash deadline of 1 December. They read and reread the plan, admitting that the systems analysis jargon made the going rough in spots. (Carrese says most of that jargon was deleted from the final draft.) They interviewed many of the principals involved in the creation and execution of the plan. And they looked at the 40 reports from which the plan was synthesized. Then they summed up their feelings about it all in a succinct, 23-page report, which, like the cancer plan itself, remains officially a confidential document, although numerous copies are in existence.

By prior agreement with the NCI, the institute will not release its critique until the plan itself is unveiled. Many members of the review committee concede that they are not particularly happy about the necessity for such confidentiality this long after the review's completion.

On first reading, the institute's review sounds rather innocuous. It is written in language that is neither abrasive nor laudatory, and it sounds in places as if its authors are merely politely asking questions that they are sure can be answered. A second or third look can leave one with the impression that the reviewers' opinion of the plan, and of what it represents, is scarcely as neutral as it first seemed.

In their introduction they say, "We are impressed by the skill with which the plan has succeeded in organizing, conceptually, a stupendous mass of biomedical scientific material, even though we have reservations concerning the framework within which the study was conducted and the material organized." The framework, of course, is one which assumes that research can be effectively programmed on a massive scale. Throughout their review, the authors explicitly or implicitly question this.

They find the plan "reasonably sound" as an inventory of the problems of cancer, an "assurance that nothing falls between the cracks." Carrese points out, in this regard, that the identification of rehabilitation of cancer patients as a primary objective emerged as a result of the comprehensive planning. Rehabilitation has not received much attention in the past.

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[1] Lewis Thomas, Yale; David Baltimore, Massachusetts Institute of Technology; Harry Eagle, Albert Einstein College of Medicine; Herman Eisen, Washington University; Judah Folkman, Harvard; Paul Marks, Columbia University; Rufus Miles, Washington, D.C.; George Palade, Rockefeller University; Helen Ranney, State University of New York at Buffalo; Alvin Weinberg, Oak Ridge National Laboratories.

On the other hand, some of the members of the review committee worried that the systems analysis approach might "represent the underlying philosophy of the whole program." Carrese wants to know why that prospect should worry anyone.

The reviewers addressed themselves to the issue of centralization of planning of research and felt uncomfortable with their impression that there is going to be too much of it.

"It seems to us a defect of the NCPP [cancer plan] that the enormity of our ignorance about cancer receives less emphasis than it merits. Much is said about the lines of research that appear most promising today—virology, cellular immunology, and genetics, for example—but too little acknowledgment is made of the genuine possibility that any or all of today's leads, including all of those proposed by the 250 scientists in the Airlie House Conference, could turn out to be the wrong leads."

The plan fails, they said, because:

"It leaves the impression that all shots can be called from a central headquarters; that all, or nearly all, of the really important ideas are already in hand, and that given the right kind of administration and organization, the hard problems can be solved. It fails to allow for the surprises which must surely lie ahead if we are really going to gain an understanding of cancer."

They went so far as to propose that certain areas of basic research are, per se, relevant to cancer and should, therefore, be funded by the NCI whether the investigators doing the work consider themselves cancer researchers or not. Their choices: DNA replication, the cell cycle, regulation of transcription, regulation of membrane assembly and function, cell differentiation, regulation of protein synthesis, and all aspects of cellular immunity. They indicated they would be perfectly happy to see them changed as cancer progresses.

The institute review committee then tried to soften its criticism by saying these defects in the plan may be merely a matter of language, not one of intent on the part of the cancer planners. But they are not very convincing. Their concern with targeted research is pervasive and it is significant because, whether the planner intend centralization and rigidity or not, vast numbers of scientists—young and not so young—believe that this is the effect the plan will have. That in itself is stifling.

One of the primary sources of discontent among "cancer" scientists in both clinical and fundamental research is the feeling that they have surrendered control of the direction of science to the administrators of the NCI. The verbal protestations of those administrators notwithstanding, many members of the scientific community share the impression that the important decisions about what to fund and at what level are being made almost exclusively by content among "cancer" scientists in NCI officials whose interpretation of what is suitably part of the cancer program and what is not does not square with their own.

The authors of the Institute of Medicine's review based their concern about an excess of planning on their reading of the cancer plan. To some extent, their concerns were validated recently at a meeting of the advisory committee of the NCI's "molecular control" program, which could be one of the principal channels for funding basic research in the cancer crusade. Issues raised at that meeting are likely to come up again and again as the cancer program takes shape. The molecular control program, new to the NCI table of organization, is headed by Timothy O'Connor, a virologist by training, who is respected as one of the most scientifically sophisticated administrators in the institute. O'Connor, visibly enthusiatistic about his program, is particularly anxious that it foster interdisciplinary research. The advisory committee includes a couple other NCI staff members and several university scientists. Their job is to define the goals of the molecular control program, take a hand in implementing them, and to offer an opinion on whether specific contracts (or possibly grants) should be approved. Such recommendations then go to the NCI brass for final action.

From the outset, it was apparent that some of the university scientists did not fully understand how the NCI operates; nor did they fully agree with some of the premises of the NCI program once they got them straight.

When the meeting opened, O'Connor informed the group of four contracts that had won final clearance. The conversation quickly turned to policy when Christian B. Anfinsen, who shared the 1973 Nobel prize in chemistry, asked about how contracts originate. Do they just come from the "stratosphere" for approval, or can the committee initiate things, he queried.

O'Connor said that the ideas for contracts are often generated by investigators themselves at the annual NCI meeting for contractors. Saul Schepartz added to the answer, saying, "Every once in a while you might get a really good proposal that is unsolicited [by NCI], but then you have to ask whether it fits our program." Anfinsen found the answer "disappointing."

The meeting moved on. The committee set about defining the goals of the molecular control program and, after some discussion, agreed on four, roughly as follows: (i) membrane processes, including structure and membrane interactions with various agents; (ii) replication, integration, and transcription of genetic material; (iii) mechanisms by which messenger RNA is processed and by which it translates the information coded in DNA; and (iv) integration of biophysics into research on all of the above.

The goals won general acceptance as being broad enough to encompass a considerable variety of research, but they were not accepted without reservation. Anfinsen asked, somewhat rhetorically, "Our four goals essentially all say the same thing—control of protein synthesis [is important]. Might we be missing something?" The question passed, but other knotty questions arose as the discussion progressed to the ways of implementing research on the goals.

It seems safe to draw the conclusion that the non-NCI scientists present shared O'Connor's conviction that the program must be interdisciplinary. Britton Chance of the University of Pennsylvania pressed the cause of biophysics and had no trouble winning his colleagues to his view. William Joklik of Duke University was firm in his belief that the fields of protein synthesis and membrane biology and related areas could probably benefit from the help of some good organic chemists. He mentioned the problems that nucleic acid workers are having in getting an iodine tag on the RNA molecule without breaking it and postulated that an organic chemist might have the solution. That sounded sensible. (Years ago, it was an organic chemist who helped James Watson and Francis Crick work out the structure of DNA.) There was a suggestion that one thing to do would be to let the entire scientific community in on the idea of soliciting organic chemists by publishing, in some conspicuous place, the fact that the cancer program was open to the contributions that organic chemists might make.

That did not go over as well. One of the NCI administrators warned that the result of such a general announcement would merely be a flood of grant applications, many of them from "nuts," and that the NCI is swamped with applications as it is. Furthermore, there is the matter of limited funds. A proposal to organize small conferences to which a few investigators from fields not traditionally connected with cancer would be invited won greater acceptance from the NCI people. Some of the committee members just could not shake the feeling that NCI wants to call the shots, relying less on the advice of outside people than ever.

RELEVANT RESEARCH CNLY

The other issue that pervaded the discussion was the matter of relevant versus irrelevant research. Is there such a thing as good membrane research that is relevant to the cancer program and good membrane research that is not? Such a question seemed to some to be marginally out of place at a meeting devoted almost entirely to very fundamental research problems, but the question was very much there nevertheless. O'Connor mentioned several times that the overriding aim of the molecular control program is to use appropriate research findings to develop new, rational approaches to the design of drugs for eventual use at the bedside. O'Connor expressed it simply: "Good science for its own sake, no matter how beautiful it is, will not get funded. Good research that may lead to cancer control will." (After the meeting, O'Connor reiterated his position. The idea is to translate—through deliberate effort—basic discoveries into something practical—namely, a drug. To this end, he hopes scientists can learn to see how their work can be used in ways they might not otherwise have considered. "The end of a good experiment has to be more than just the publication of a paper that sits on a shelf," he said.)

Again Anfinsen, who by his own admission was not happy with the framework he felt he'd been forced into, spoke up. "The nub is that we can tell good science that is relevant from good science that is not. I don't think I can."

In a sense, there are two issues here and, in one regard, less discord than appears on the surface. Certainly, one is the issue of relevant research and the extent to which anybody can be sure what that is. Underneath that is the issue of money and the ways the NCI as a whole chooses to allocate it. Anfinsen is talking about principles. O'Connor is trying to get the most sophisticated science he can for a comparatively meager amount of money. The molecular control program, which, no matter what its limitations, is considered by many cancer workers to be one of the more promising of the NCI programs, has an indefinite budget. So far, it has allocated about $1 million.

If one puts that beside the budget for the traditional NCI drug screening program—as both clinicians and basic researchers do—one raises a question that has come up before but which many people still think needs answering. Under the category of cancer treatment, the drug screening program has $23,900,000 or 46 percent of that category's total budget. Anfinsen, who was not buying much of anything the day of the molecular control program meeting, spoke to the issue with regard to a contract the molecular control program itself has given out.

The program, with the approval of its advisory board, has awarded Litton Industries a $301,000 contract to screen anticancer drugs and antiviral agents. Anfinsen suggested that, if the "silver bullet" approach to curing cancer is to be pursued under the heading of molecular control, it might be wise to award the same contract to two groups to see if competition would lead to a better idea. "Screening has been going on at NCI for a long time and not much has come of it," he said. "It is like trying to get to Mars by building a more powerful moon rocket. It's not very imaginative." O'Connor defends this drug screen as being different from the rest. It will only look at compounds carefully selected as potential anticancer drugs on the basis of their molecular structure. It will not be a random screen and will limit itself to about 800 compounds a year. (The existing screen-program, which uses an animal system to identify promising agents, tests almost 40,000 compounds a year.)

The advocates of the existing drug screening program can, of course, point to the present arsenal of anticancer drugs as vindication of their efforts—and they have a case. But the questions being raised address themselves to matters of proportion—priorities, if you will—and in this there is still no resolution. The NCI administrators have the upper hand, or, at least, the scientific community thinks they do. And it has no tangible evidence that it is misreading the situation. It may just be a matter of approach—the two "sides" may not really be hopelessly far apart—but it is hard to believe much significant progress will be made until these issues are set straight.

[From the Medical World News, July 12, 1974]

THE LINES OF CANCER RESEARCH

IN THE WAR AGAINST CANCER, EXPERTS DO BATTLE OVER HOW MUCH TO SPEND ON "CURABLE" PATIENTS, HOW MUCH ON BASIC RESEARCH

Most people who get cancer die because of it. It is true, as previous articles in this series have indicated, that during the past ten years there has been some remarkable progress in treating—even curing—a few relatively uncommon forms of cancer. And it is apparent to constant observes of the "politics" of cancer that both the American Cancer Society and the National Cancer Institute are placing new emphasis on the positive things that can be said about this horrible killer. "In the 1930s fewer than one cancer victim in five was being saved," spokesmen for both groups frequently tell audiences. "Today, we're saving one in three."

That sounds like progress, and it is. Advances in surgery and radiation therapy, along with the advent of chemotherapy, have certainly given physicians new powers in their fight against cancer. And, to add further hope, there is immunotherapy, admittedly still in experimental stages but coming along fast. As Dr. Wiliam D. Terry, NCI's chief immunologist, says, "Immunotherapy today is in about the same stage of development that chemotherapy was in a decade ago."

But for all this, the fact remains that cancer is anything but a curable disease. The ACS' own figures tell the story. "Of every six persons who get cancer (exclusive of superficial skin cancer and carcinoma in situ of the uterine cervix) today, two will be saved and four will die. Numbers one and two will be saved. Number three will die but might have been saved had proper treatment been received in time. Numbers four, five, and six will die of cancers that cannot yet be controlled; only the results of research can save these patients."

These are the facts. Since December 1971, when President Nixon signed the National Cancer Act, as a "Christmas present to the nation," this country has been engaged in an expensive war on cancer, launched to do something to change the facts. The director of the NCI, Dr. Frank J. Rauscher Jr., is the commander of the cancer crusade.

The war on cancer is really two wars. One pits physicians and scientists against tumors; the other has cancer researchers fighting each other. The National Broadcasting Company aptly dubbed it the "war within the war," and it is being waged over money. Prior to December 1971, when the cancer institute was just an institute like any other within the National Institutes of Health and cancer research was conducted without the fanfare of a national campaign, the total NCI budget was $233 million (for fiscal 1971), a sizable sum even then. With the signing of the cancer act, however, came more money. In fiscal 1972, the NCI got an increase of $145 million, filling its coffers to a munificent $378 million. In 1973, Congress told the NCI it could spend $492 million. But the President's Office of Management and Budget said "nothing doing" and gave the NCI only $432 million. In 1974, there was more haggling, with the White House taking a conservative stand; but the NCI came up with a total of $589.2 million, in part because the courts ordered the release of money impounded the previous year, money added on now to 1974 budgets. (The President's original request for 1974 was $500 million.) The NCI will spend at least $600 million in fiscal 1975, and that is a lot of money to fight about.

How much money should be spent on cancer control that, among other things, is focused on saving the person the ACS calls patient number three, the one who might have been saved if only he had received the right care soon enough? How much should be spent on basic research, on helping patients four, five, and six who, as things stand now, are doomed no matter what anyone does? Theoretically, these should not be mutually exclusive goals; but practically, even with the comparatively vast resources of the cancer war, there does not seem to be enough money to go around.

Because of the progress that has been made in diagnosing and treating cancer, the NCI has arrived at new feelings about what now constitutes the "best available care" for cancer victims and is attempting to make it widely available through various means. Certainly, some dissemination of the latest therapeutic advances takes place through the Comprehensive Cancer Centers (CCC) program. (There will soon be some 18 CCCs throughout the country, and the NCI estimates that about half of the U.S. population will be within half a day's drive of one of them.) More formally, efforts to make sophisticated information widely available are made through the Cancer Control Program. It is through this program, for example, that physicians might learn about the NCI's conviction that a "team approach" to the cancer patient is best—one in which the skills of the surgeon, radiologist, and chemotherapist are brought to bear from the start. In fiscal 1974, this program will cost $34 million.

Dr. Rauscher calls the Cancer Control Program "the most important new component of the National Cancer Program. It is just not right to have some child die of leukemia just because he doesn't live in the right town. We have the know-how to save them—we're probably reaching only 50% now—and we've got to reach more."

No one is about to come out and flatly disagree with that, but there are individuals in the cancer community who believe that the emphasis on the here and now is unwarranted in light of the fact that funds for research are restricted. Some of these persons sit on the National Cancer Advisory Board, the Presidentially appointed body that oversees the conduct of the war on cancer. Generally, they prefer to stay out of a public debate on the issue although they speak out in private and, reportedly, in closed sessions of the board.

One of the more articulate spokesmen for the primacy of research is not a member of the board but is, nonetheless, influential in cancer circles. Dr. Lewis Thomas, president of Memorial Sloan-Kettering Cancer Center in New York, is a crusader against what he calls "halfway technology" and against the presumption that science knows enough about cancer to mount any kind of organized attack on it. Of halfway technology, he has written: "This represents the kinds of things that must be done after the fact, in efforts to compensate for the incapacitating effects of certain diseases whose course one is unable to do very much about. It is a technology designed to make up for diseases or to postpone death. . . . Much of what is done in the treatment of cancer, by surgery, irradiation, and chemotherapy, represents halfway technology, in the sense that these measures are directed at the existence of already established cancer cells, but not at the mechanism by which cells become neoplastic.

"It is a characteristic of this kind of technology that it costs an enormous amount of money and requires a continuing expansion of hospital facilities. There is no end to the need for new, highly trained people to run the enterprise. And there is really no way out of this, at the present state of knowledge."

Control programs in general have not fared well at the NIH, in the NCI or any of the other institutes in which they once existed. The idea seemed to be that the proper mission of the NIH is research, not the delivery of medical care in any general form, and so, control programs were discontinued. This disturbed members of the House of Representatives Committee on Interstate and Foreign Commerce considering enactment of the National Cancer Act during deliberations prior to its passage. "The committee was very disturbed to find in its study of the cancer problem that identifiable funding for cancer control programs cleared with fiscal year 1970 and that a number of the activities previously supported through these programs have in one way or another been terminated or allowed to lapse," a committee report stated.

Favoring some "public health" aspects of a cancer program while also stating that the NCI should not get into the business of practicing medicine, the committee declared: "The NCI should not be involved in extensive patient care activities to demonstrate the effectiveness of a particular technique or finding. Yet the committee sees an important role for NCI in bridging the gap between research and general medical application. Once the effectiveness of these findings can be demonstrated—to the satisfaction of the scientific community—these results or techniques should be expeditiously communicated to the medical practitioner."

The line between "demonstrating" and "delivering" care is thin, and which side of it the control program was going to end up on has been subject to differing interpretations from the start. It remains so now that the program is finally getting under way after a slow start. In spite of what may seem to be the clear intent of Congress, as expressed in the committee report, the law itself is less clear, and—at the beginning—Dr. Rauscher had problems in getting agreement on the extent of cancer control activities. He was supported by people on Capitol Hill, particularly Rep. Paul G. Rogers (D-Fla.), and by the ACS, a strong ally. In fiscal 1972, the Cancer Control Program did not have a nickel, but by 1973 it had been given special budgetary attention and got $7 million with which to get started. Says Dr. Rauscher: "Significantly, Congress and the Office of Management and Budget provided new funding for cancer control, which was not at the expense of funds for basic, fundamental research." Not everyone agrees with the latter part of that statement.

Among the problems cancer control has had in getting started was finding a director. The first one appointed did not work out well and was assigned to other duties within the NCI. At the eleventh hour, his replacement was unable to move to Washington for personal reasons. It was only a few months ago that Dr. Diane Fink, who has been with the NCI since 1971, was named director of cancer control. She says she has no illusions about the dimensions of the task she is taking on.

THE WAR ON CANCER: THAT'S WHERE THE MONEY GOES

The simple fact that this country has legislatively declared war on cancer and that the White House more or less endorses this war has meant that the money available for cancer programs of various sorts has tripled since 1972. It is true that Congress is willing to give the cancer program more than the President will allow; to that extent, the war on cancer is not being funded as well as some people think it should be. Nevertheless, money for the cancer program is nearly double the amount earmarked for its nearest fiscal competitor, the National Heart and Lung Institute.

The National Cancer Institute will spend $600 million in fiscal 1975. All told, says NCI Director Rauscher, the cancer institute has been spending about 50 percent of its funds for grant-supported activities. With an increase of about $23 million from fiscal 1974, the NHLI will spend about $310 million. And for fiscal 1975, all of the other institutes combined received a total budget increase of approximately $1 million.

Discussing the program with MWN, Dr. Fink said that the basic function of cancer control is education—of the public and of the practicing physician. There are, she explains, three major intervention areas: cancer prevention; detection, diagnosis, and pretreatment evaluation; treatment, rehabilitation, and continuing care. Among the program's more extensive projects is one begun last year to disseminate information on effective therapy for three "curable" cancers—acute lymphocytic leukemia, Hodgkin's disease, and non-Hodgkin's lymphomas. Chemotherapy will play an important role in this demonstration program, which designates seven "primary" hospitals to act as the focus of regional networks involving 120 community or "contributing" hospitals. The seven primary hospitals, at which oncologists will demonstrate the "most effective methods of diagnosis and therapy for all three types of cancer," are: Childrens Hospital of Los Angeles; Children's Hospital Medical Center, Cincinnati; Dartmouth Medical School, Hanover, N.H.; University of Alabama Hospitals and Clinics, Birmingham; Children's Hospital, Denver; New York Hospital-Cornell Medical Center; and Mount Sinai School of Medicine, New York City. The first year's operation, during which the program was being organized, cost $2 million.

The control program is also preparing to demonstrate the effectiveness of the Pap smear in detecting cervical cancer in a screening program of 42,000 women (many members of minority groups) in the Southwest. That project will cost $80,000.

Concern for the effectiveness of various educational programs aimed at teaching the public and health professionals alike about the dangers of smoking is another item on the cancer control agenda. More than $1.5 million will be spent "evaluating" them.

Many basic scientists are unhappy to see money from the cancer program going into projects such as these, contending that it could be better spent on research that may shed light on the fundamental aspects of cancer which, they believe, will be necessary before any truly satisfactory clinical progress can be made.

The need for greater emphasis on fundamental research was spelled out by a committee of the Institute of Medicine-National Academy of Sciences, appointed to review the National Cancer Plan, the master plan for the war on cancer. "It seems to us a defect of the cancer plan that the enormity of our ignorance about cancer receives less emphasis than it merits. Much is said about the lines of research that appear most promising today—virology, cellular immunology, and genetics, for example—but too little acknowledgment is made of the genuine possibility that any or all of today's leads . . . could turn out to be the wrong leads."

The Institute of Medicine committee, headed by Dr. Thomas who was, at the time of the review, just moving to Sloan-Kettering from Yale, spoke for the research community in asking whether the cancer program might become too rigid and make too many presumptions about what is known. "It [the plan] . . . leaves the impression that . . . given the right kind of administration and organization, the hard problems can be solved. It fails to allow for the surprises which must surely lie ahead if we are really going to gain an understanding of cancer."

What might those surprises be? Which areas of basic research might reveal truths about cancer? The committee boldly made a stab at some suggestions: DNA replication, the cell cycle, regulation of transcription (the process by which DNA passes its genetic information on to RNA), regulation of membrane assembly and function, cell differentiation, regulation of protein synthesis, and all aspects of cellular immunity. The point the committee wished to make is that the NCI consider funding many kinds of basic work, whether they are clearly labeled cancer research or not.

Although there are dozens of ways to go about looking for basic information about cancer cells, there is a common denominator for them all. Scientists are looking for "differences." In what ways, they ask, are cancer cells different from normal cells. The one distinguishing feature of malignancy is, of course, well known. Cancer is characterized by—in fact defined as—uncontrolled growth. In circumstances in which normal cells show self-restraint, cancer cells show none, proliferating without regard for the normal tissue they are destroying in their wake. The question is why?

One area of basic research that has received growing attention during recent years is the study of the cell surface or membrane. It is clear that the surface properties of tumor cells differ from those of normal ones, both in the antigens they possess and in the structure of the membrane itself. There are many researchers in this field. Says Dr. Garth L. Nicolson of the Salk Institute in San Diego: "The cell surface is the critical structure by which cells recognize and communicate with one another. The surface is bounded by a very thin membrane, approximately one half millionth of an inch, that is made up of proteins, lipids, and sugar molecules."

To see what happens to membrane molecules when a normal cell is transformed to a cancerous state, Dr. Nicholson, and his colleagues grow them in tissue culture. In a Petri dish, normal cells will grow until a contained population of cells forms a monolayer, or single covering. Tumor cells pile up on top of one another. Using a lectin—a plant protein that binds to sugar molecules—as a probe, Dr. Nicolson discovered what may be an important difference between tumor and normal cells. When normal cells come into contact with one another, he has reported, they modify their surfaces by dramatically increasing concentrations of a particular sugar residue in their membranes. Tumor cells show no such surface modification, continuing to grow as though they had not recognized the presence of other cells in the environment. "Thus," says Dr. Nicolson, "the processes that regulate the growth of normal cells may, in part, be signaled in normal cells by this change in sugar polymers."

Nobel laureate Robert W. Holley, also of the Salk Institute, is another membrane investigator, although his version of how things work is somewhat different from Dr. Nicolson's. Dr. Holley has been looking at normal and malignant cells in culture and at temperature-sensitive mutants—cells that behave normally when incubated at high temperatures and that behave malignantly at low temperatures. What Dr. Holley finds is that cell behavior is related to concentrations of various nutrients in its environment—in this case, culture medium—and that a cell may be what it eats.

"Growth is regulated by a complex interaction of many factors," he concludes, rejecting the belief of many of his scientific colleagues that there are clear-cut "on-off" switches in cells. Instead, he believes that normal cells divide when their intracellular concentration of nutrients is adequate; in other words, when they have had enough to eat. This is all directly related to membranes because it is through the membrane that nutrients enter the cell. Dr. Holley postulates that certain "serum factors" that he is trying to characterize may affect the permeability of the membrane and, therefore, control the flow of nutrients to the cell. Theoretically, in cancer, changes in the membrane may be such that the cell is no longer under the influence of these regulatory serum factors. Nutrients enter without restriction. The cells divide continuously.

From a slightly different perspective, immunologists are also interested in cell membranes because it is there that antigens of various sorts reside. All cells, normal and malignant alike, have surface antigens. They are among the components or features of the cell that give it its unique identity. Those on tumor cells are unlike antigens on normal ones and label the tumor cells as "foreign" and, therefore, in ideal circumstances, susceptible to recognition and destruction by the immune system.

According to one theory, known as "immune surveillance," cells of the immune system are constantly surveying the body, on the lookout for foreign cancer cells. It may even be possible that the immune system evolved for the purpose of protecting against cancer, some investigators hypothesize.

The immune system is divided into two parts. One line of defense is built of B (bone marrow-derived) cells that make antibody. The other is composed of T (thymus-derived) cells of T lymphocytes that provide what is known as "cellular immunity." It is this part of the system, many investigators believe, that bears primary responsibility for coping with cancer.

During the past couple of years, there has been notable progress in studies of the immune system, which Dr. Robert W. Baldwin of the University of Nottingham, England, summarized at a recent meeting of the American Cancer Society. He said that it is known that both experimentally induced and spontaneous tumors in animals frequently "express" cancer antigens, and that the nature of these antigens seems to be related to the agent that induced the cancer in the first place. For example, cancers induced by chemicals have one type of antigen. Those caused by viruses have another. In the case of viruses, in fact, it has been shown that the antigens or immune properties of the virus and those of the tumor are related, indicating considerable specificity.

Human tumors, too, show specificity in the antigens they express. There are, for example, antigens thought to be characteristic of breast cancer. And there is evidence that many human tumor antigens are actually fetal antigens that, for some reason, are being re-expressed in adulthood. This observation, among others, has lead to the idea that cancer is really a problem of cellular maturation or differentiation. (Carcinoembryonic antigen and alphafetoprotein are in this category; they appear to have usefulness in tumor diagnosis and in monitoring the therapeutic course of patients with certain types of cancer.)

For reasons that are not yet understood, there are times when tumor cells elude the ability of the immune system to handle them. Paradoxically, one explanation, first put forth by Drs. Karl and Ingegerd Hellstrom of the University of Washington in Seattle, is that antibodies or some other factor in blood serum blocks the cancer antigens, masking them as it were.

Dr. Baldwin discusses an extension of that idea. "The view, now gathering acceptance, is that growing cancer cells release or 'shed' cancer distinctive antigens from the cell surface into the tissue surrounding the cancer growth and ultimately into the circulation. The released cancer substance will combine specifically with circulating cancer-specific antibodies also in the circulation so that there are a number of ways in which cancer-directed immunity can be inhibited." The picture becomes more and more complex as research continues.

Dr. Alexander R. Lawton of the University of Alabama in Birmingham looks at the immune system and cancer from the point of view of B-cell differentiation and the need to understand the ways in which cells "talk to each other." Differentiation, he notes, occurs as a consequence of gene expression. "It is possible to make the generalization that a critical factor in initial steps of differentiation for an uncommitted cell is supplied by other cells in its immediate environment. This concept of inductive differentiation microenvironments is particularly well illustrated in the development of the immune system."

With Drs. Max D. Cooper and Paul Kincade, Dr. Lawton has worked out a scheme to account for B-cell differentiation. The cell starts out life as an uncommitted stem cell, first found in the yolk sac of embryos, and then migrates through the bloodstream to the fetal liver. There, controlled by influences supplied by its environment, it becomes a B-cell, first recognizable as such by its ability to synthesize a particular immunoglobulin, IgM. Unlike plasma cells that also synthesize antibody (in large quantities), the B-cell makes only small amounts of IgM, which it tucks into its membrane. There, Dr. Lawton says, the B-cell-made antibody acts as the cell's trigger mechanism, reacting to antigens to which the cell is exposed. Under normal conditions, the B-cells presumably then direct the synthesis of antibodies suitable for the situation.

But there are certain B-cell malignancies in which it is apparent that the ability of the population of cells to differentiate properly is impaired. One of these is chronic lymphocytic leukemia in which the B-cells proliferate, slowly but continuously. Another is multiple myeloma. B-cells at a more mature stage of development than those in lymphocytic leukemia are, again, growing out of control. "The importance of control of differentiation in understanding malignancy has probably not received the attention it deserves," Dr. Lawton says, although he is hopeful that further studies of lymphocytes will contribute a solution to the problem.

In most cases, it is the ability of cancer cells to metastasize that is the most frustrating (and fatal) aspect of the disease. Immunologist Isaiah J. Fidler of the University of Pennsylvania School of Medicine believes that surface properties of the tumor cell determine whether it will or will not spread. He maintains that it is the tumor cell that manipulates the immune response, not the other way around, and that there may be two functionally different types of immune cells, "one of them stimulatory and the other inhibitory."

Dr. Fidler and his associates have been investigating the role of lymphocytes and macrophages in the phenomenon of tumor growth and spread. What they suggest is that lymphocytes may play a dual role, sometimes stimulating and sometimes inhibiting tumor growth but that macrophages, once recruited into action by sensitized lymphocytes, are uniformly anticancer agents. He believes that if macrophages could be suitably sensitized, they could come to play a major role in cancer therapy.

Molecular biology and immunology are gaining new recognition for their role in the study of cancer. Virology, one of the fields that had dominated cancer research during the past decade, continues to flourish, although its directions are changing. During the past few years, the search for a human cancer virus has been intense and highly competitive. Scientists hoped that if only they could get their hands on the human cancer virus—or viruses—they all believed to be present in tumors, they could design a simple and effective way to eliminate cancer. It has not proved to be nearly that simple.

Those human cancer viruses that have been reported, always with much fanfare, have turned out to be animal viruses after all. And now, as virologists probe tumor cells with new sophistication, they are becomnig more concerned with finding "footprints" of viruses, or pieces of virus, than they used to be with getting the whole virus itself. Dr. Sol Spiegelman, director of the Institute for Cancer Research at Columbia University, put things in perspective somewhat glibly recently with this prediction: "I predict that one or two cancer laboratories in the U.S. will succeed in isolating a human cancer virus this year or, if they don't, big deal."

One of the principal cancer virus theories promulgated recently is the oncogene hypothesis put forward in 1969 by Drs. Robert J. Huebner and George J. Todaro of the NCI. Simply put, they propose that every cell in the body contains the genetic information necessary for the production of C-type RNA viruses, known to cause cancer in animals, and that it is this "oncogene" that causes cancer in man when it is turned on or "depressed" by some event.

Dr. Spiegelman claims he has data that show that the oncogene hypothesis is not true, especially because it says that the genetic information for cancer is present in every single cell from the beginning of life. In the past few months, he has studied twins, one of whom had leukemia and one of whom did not. By using a technique called molecular hybridization (which he pioneered), he has shown that there is genetic information in the cells of the leukemic twin that suggests the presence of a tumor virus—but no such information in the cells of the healthy twin.

Dr. Robert C. Gallo and his colleagues at the NCI also suggest that the oncogene theory may be incorrect and in need of some modification. Dr. Gallo, who has been looking at the role of RNA viruses in animal and human cancer, says: "The weight of evidence appears to be moving away from the concept that 'oncogenes' exist in cells in a dormant state and toward the idea that oncogenic sequences [of viral genetic information] are acquired by genetic modification of cell genes that then become associated with other viral genes."

Both Drs. Spiegelman and Gallo are among those whose studies make use of information that can be obtained by looking for reverse transcriptase in cells. First discovered in 1971 by Dr. Howard M. Temin of the McArdle Laboratory for Cancer Research at the University of Wisconsin and Dr. David Baltimore of the Massachusetts Institute of Technology, reverse transcriptase has played an important role in cancer virology. It is an enzyme that allows an RNA virus to make DNA, reversing the usual DNA-to-RNA process of genetic transcription and has given researchers new ways of probing cells for viral information.

Dr. Gallo and Dr. David Gillespie, also of the NCI, have just suggested a new theory about cancer and viruses. They call it RNA processing. They support the notion that the normal function of RNA viruses is not to cause cancer, but to aid in the process of differentiation and development. Cancer arises when there is an error in their expression, when the process of converting the genetic information they contain goes awry.

"The possible relation between RNA processing and the production of RNA tumor virus genomes is important not only from the point of view of understanding how frank animal tumor viruses originate and are maintained in cells, but it is also useful as a basis for evaluating human cancer," say Drs. Gallo and Gillespie. "If an unusual mode of RNA processing can be generally documented in human tumor cells and the responsible event elucidated, then a single mode of therapy aimed at this event may be useful in the treatment of neoplastic diseases."

For the busy clinician facing his cancer-stricken patient today these lines of fundamental research hold out at best a hope for men and women he may never see in his lifetime. But his interest can never be put into neat categories labeled "academic" and "practical." When the war on cancer is finally won, the observations of informed physicians will play a vital part in the victory, as they do in bringing the best available care medicine can provide to cancer victims now.

Senator KENNEDY. The subcommittee stands in recess, subject to the call of the Chair.

[Whereupon, at 2:20 p.m., the subcommittee recessed, subject to the call of the Chair.]

Calendar No. 710

93D CONGRESS *2d Session*	SENATE	REPORT No. 93-736

NATIONAL CANCER ACT AMENDMENTS OF 1974

MARCH 20, 1974.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 2893]

The Committee on Labor and Public Welfare, to which was referred the bill (S. 2893) to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute), and recommends that the bill as amended do pass.

I. Accomplishments of the National Cancer Program

The Committee feels that since its inception a little more than two years ago, the National Cancer Program has made substantial progress. To some observers, research progress has seemed too slow, yielding few significant reductions in the overall impact of the disease. But, dramatic progress has been achieved against several types of cancer and hopefully other cancers may soon yield to new and exciting research approaches now underway. The difficulty of the cancer problem is illustrated by the fact that in spite of the progress that has been made, one of every four of our citizens will develop cancer in their lifetime. According to the present trends, 665,000 new cases and nearly 350,000 deaths from cancer are expected in 1974.

There has been little improvement in life expectancy, for example, for patients with cancers of the pancreas or lung. For patients with pancreatic cancer, survival rates have shown no improvement in the past 20 years, while incidence of the disease has risen sharply. It is now the fifth most common cause of death from cancer in the United States.

Lung cancer kills more Americans than any other type of cancer—an estimated 72,000 persons will die of the disease this year—and its incidence has more than doubled since 1947 in both men and women.

One of the most frustrating aspects of lung cancer is that cigarette consumption continues unabated despite knowledge that the toll from this disease would be sharply reduced in future years by a comparable reduction in cigarette smoking now.

Yet there have been heartening advances. Forty years ago only one out of every five cancer patients could be expected to be free of all evidence of cancer five years after treatment. By 1970 that figure was one out of three. Improvements in life expectancy for patients with acute lymphocytic leukemia and Hodgkin's disease following aggressive treatment are well documented. This past fall the National Cancer Institute reported improvements in the percentage of patients surviving three years or longer following diagnosis of cancers of the urinary bladder, brain, larynx, prostate and thyroid, as well as among patients with chronic lymphocytic leukemia, multiple myeloma or melanoma of the skin.

The National Cancer Program is gaining ground against many forms of the disease and this effort will help ensure maximum sustained progress against all forms of cancer. While strengthening the ability of NCI to mount a broader, more intensive research attack, the Act also charges the National Cancer Institute with developing and coordinating a national strategy against cancer. Furthermore, the agency is given new responsibility for ensuring that research results are quickly and systematically put into widespread use for cancer prevention, detection, diagnosis and treatment.

The development and coordination of the National Cancer Program involves, first, the development of a consensus among clinicians and laboratory scientists about the direction, content and pace of the research program. The overall program strategy involves the systematic sharing of cancer information by public and private agencies throughout this country and abroad. It requires continued assessment of resources needs and logistical planning to meet those needs. In some cases, it necessitates the redeployment of existing facilities, the rapid evolution of new kinds and combinations of research support, the reassignment of science management responsibilities, and the development of new mechanisms of technological transfer and information retrieval and application.

Cancer Biology

In studies of cells in tissue culture, work is in progress to identify changes in cell metabolism that accompany malignant transformation. A number of abnormal properties of transformed cells, for example, seem to be related to their inability to accumulate a chemical compound, cyclic adenosine monophosphate, that facilitates normal processes within cells.

Research in cancer immunology has been expanded, based partly on clinical observations that patients with defects in immunity have a high incidence of cancer. Cancer cells are, in a sense, foreign to the body. And the immune system seems to recognize them and to react to them. Although the reaction usually is not sufficiently strong to destroy the tumor completely, there are ways to stimulate the immune system so that it is more effective. Studies of this system have important implications to detection and diagnosis as well as treatment of cancer, and attention has been given this past year to planning a greatly expanded, coordinated national program of immunologic research.

Other factors are also involved in malignant transformation. For example, a chemical, isolated from some cancers, induces rapid growth of blood capillaries supplying the malignant tumor. It is thought that this capillary-inducing tumor factor must be present before the tumor can grow larger than a few millimeters in size. With further study and understanding, this factor, too, may eventually be exploited for cancer prevention and treatment.

Cause and Prevention

The Third National Cancer Survey, still being analyzed, provides incidence and prevalence data for the years 1969 through 1971 for seven metropolitan areas, two entire states, and the Commonwealth of Puerto Rico. Making the necessary statistical adjustments and excluding common skin cancers, the Survey findings indicate that approximately 610,000 new cancers were diagnosed in this country in 1969. This figure represents an incidence of 318 new cases of cancer for each 100,000 people in the U.S. population. The incidence for blacks (338) is substantially higher than for whites (311). The difference is particularly large between black males (371) and white males (335).

A number of trends are worth noting, based on comparisons with a 1947-48 survey of ten cities:

> The incidence among males increased almost 9 percent, while the incidence among females decreased 13 percent. The contrasting trend between the sexes was particularly marked among blacks.
>
> The increase among males is due largely to a substantial increase in the incidence of cancers of the lung and prostate, and a lesser increase in the incidence of colon cancer. The combination of these increases more than counterbalances the drop in the incidence of gastric and rectal cancers.
>
> The overall decrease among females reflects drops in the incidence of cancers of the uterine cervix (invasive), stomach and rectum. The only site with an important rise in incidence among women is the lung—the rate doubled from 6 to 12 per 100,000.

Previously, excesses of cancer incidence have been associated with occupation-related hazards of steelworkers, smelter refinery workers, asbestos workers, uranium miners, and others. In view of the importance of such exposures as a source of cancer, the national program has become more heavily involved in occupational epidemiology, in cooperation with the National Institute for Occupational Safety and Health, the Environmental Protection Agency, and other Government agencies.

Discovery of relationships between exposure to environmental chemicals and the development of cancer in man has usually been the first step toward knowledge about specific cancer causes. This provides the rationale for an extensive research effort to identify cancer-causing, or carcinogenic, chemicals in our environment.

Because almost all materials that have been demonstrated to be carcinogenic in man have also been found to be carcinogenic in animals—and because there is no ethical, sure way to test for carcinogenicity in humans—tests for carcinogenic hazards in animals have been developed and are being continuously improved. Approximately 1,000 chemicals have been found to cause cancer in animals, out of about 6,000 that have been tested.

Viruses are probably responsible for at least some human cancers. They cause many animal cancers. The possibility of finding viruses or any of the tell-tale viral proteins in human cancers has increased enormously with the development of (1) new immunological and biochemical methods of detection, (2) specific ways to activate viruses in tissues, and (3) other techniques to detect viral activities at the molecular level. One viral protein of particular importance is an enzyme called reverse transcriptase. This enzyme is found in tumor viruses of the ribonucleic acid (RNA) type and is thought to be a necessary element in the ability of these viruses to convert infected cells from normal to malignant. Once a virus is identified and its role in causing one or more types of cancer in humans is established, it may be possible to develop means to neutralize its activity. For example, it may be possible to develop chemical compounds to inhibit or block enzymes or other molecular activity of the virus in cancer cells, thereby killing the cancer cells or reverting them to normal. Identification of such viruses also could lead to ways to detect some cancers and to measure the success or failure of treatment in humans.

Detection and Diagnosis

At the present time, most physicians believe that early diagnosis of cancer offers the best means to reduce mortality among cancer patients. Small cancers that have not yet spread can be removed surgically with an excellent probability of cure. Even if the surgeon cannot remove all the tumor, the earlier the disease is diagnosed, the better are the results and radiation and drug treatments. This is likely to be true for some years to come, despite the increasingly productive research effort on therapy with drugs and other modalities of treatment. Further, evaluation and application of the many exciting research results in chemical and viral carcinogenesis will require still longer to reduce cancer incidence.

The science of immunology has developed rapidly in recent years. An important application of research results in this field lies in the early diagnosis of cancer. In recognition of this applicability, National Cancer Program research in immunodiagnosis has been expanded.

An increasingly important part of this program is the effort to identify cancer antigens, chemical substances associated with malignant cells and thus candidates for the development of specific immunodiagnostic tests. One such test is for the carcinoembryonic antigen (CEA) often associated with bowel cancer. Although the CEA antigen does not, as originally hoped, specifically diagnose this disease, it is very useful as a "marker" to follow the progress of patients under treatment for various cancers.

Cytologic examination, the study of the characteristics of individual cells, has been used for some 30 years in a procedure known as the Pap smear for the diagnosis of cervical cancer and precancerous conditions. This kind of examination is now being used also for cells in sputum to diagnose lung cancer.

The Pap smear is the most important means for decreasing mortality from cervical cancer in this country, which could be reduced further by regular testing of all women. However, the number of tests that would be done would overwhelm the technicians available to do them. Automated analysis has been attempted in many laboratories and although systems being developed are not perfect, use of lasers and other new technology may reduce the number of specimens that technicians must examine, by identifying all of the clearly normal specimens.

Radiologic techniques are very important in the diagnostic localization of cancers in individual patients. Cancer of the breast can be screened by X-rays, using a conventional film technique known as mammography or the newer technique of xeroradiography. Thermography or the newere technique of xeroradiography. Thermography and ultrasound are two other techniques under study in the diagnosis of breast cancer—attempting to detect the presence of tumors by abnormalities in surface temperatures or transmission of sound, respectively.

A major advance in the clinical diagnosis of cancer has come from Japan in the development of fiberoptic examining instruments for detection of tumors by direct observation deep within body passages. These instruments employ bundles of tiny glass fibers which can be bent without distorting the image, or "picture" they convey. The devices include a fiberoptic colonoscope for visualization of the large intestine and a fiberoptic bronchoscope for probing all the major areas of the lung.

Treatment

The long-term objective of cancer treatment is to cure or control cancer in man. Immediate goals are to increase the number of patients responding to therapy and to prolong the period of disease-free remission and survival.

Surgery, radiation and chemotherapy, either singly or in combination, have all been shown to be effective against particular cancers. In many instances, cure is achieved through removal or destruction of localized cancer, before it has spread to other parts of the body. Surgery and radiotherapy are the two major therapeutic approaches for the eradication of localized disease. Surgery is sometimes more successful when both the tumor and the nearby involved lymph nodes are removed. Radiotherapy is used to treat cancers that cannot be removed surgically. If metastasis has occurred, chemotherapy presently offers the greatest hope.

In general, various combinations of drugs or various combinations of treatment methods have yielded better results than single-drug or single-modality cancer treatment. On this basis, further studies seek to exploit the practicality of both combination chemotherapy and combination modality therapy.

A wide variety of single drugs with different mechanisms of action have been shown capable of inducing complete remission of acute lymphocytic leukemia for varying periods in anywhere from 7 to 50 percent of the children treated, depending upon the drug used. The same agents used in various combinations have been able to induce complete remission in 76 to 97 percent of the patients, a result clearly superior to the best of single agents.

During the last decade, not only has the number of useful leukemia drugs doubled, but clinical investigators have markedly improved their ability to control often fatal complications of the disease. Transfusions of white blood cells have been successful in combating some infections, for example, and transfusions of blood platelets are effective in controlling hemorrhage. In a few studies, relatively germ-free hospital rooms achieved through laminar air filtration systems are also significantly reducing the number of serious infections among leukemia patients. Using the best comprehensive treatment, five-year survivals have been achieved in some studies in up to 50 percent of patients with childhood leukemia.

Similarly, the prognosis of patients with Hodgkin's disease has steadily improved. Of those treated with a combination of four drugs (MOPP), between 60 and 70 percent of the patients are alive more than five years after the beginning of treatment, and more than a third of them have remained continuously free of the disease. By contrast, only 10 to 20 percent of patients treated with a single agent achieve complete remission, which usually lasts for only 10 to 30 weeks.

In breast cancer, there are six single drugs that produce a significant decrease in tumor size in 20 to 30 percent of the treated patients with advanced disease. This response is about the same as that observed with hormonal agents in cases of breast cancer without regard to stage of the disease. Combination regimens using the same six drugs can achieve significant temporary decreases in tumor size in approximately 60 percent of patients. These are not cures, but integration of combination chemotherapy with earlier treatment modalities of surgery and radiotherapy clearly offers the best hope for increasing survival rates in breast cancer and other solid tumors.

The ability of surgery and radiotherapy to increase cure rates of solid tumors is limited if small, often microscopic, traces of disease are already present at distant sites at the time of initial therapy. In such cases neither surgery nor radiotherapy of the primary tumor reaches these remote traces of disease, which can grow and ultimately result in death of the patient. Efforts to increase cure rates for solid tumors therefore are increasingly using drugs with surgery and radiation in primary treatment. In developing such regimens, new drugs and combinations are first tested against far-advanced disease. Those showing positive results are then evaluated for primary treatment of local and regional disease.

The Lung Cancer Working Group is presently developing and implementing a protocol whereby patients with high risk of recurrence are being treated utilizing various combinations of treatment methods following initial surgery, including radiotherapy and combination of drugs.

In the NCI Division of Cancer Treatment, the Brain Tumor Study Group has been established to evaluate the treatment of malignant brain tumors. Initial results indicate that the drug BCNU, a potent nitrosurea, is of value in the treatment of malignant glioma, a common type of brain tumor. A more detailed study just being concluded has evaluated the use of BCNU and X-ray therapy separately and in combination following initial surgery, and has compared findings with those from a similar group of patients receiving best conventional treatment of surgery alone. Preliminary results indicate combination therapies are superior.

The most promising new studies involving bone tumors have concerned Ewing's sarcoma, a usually fatal form of bone cancer occurring in children and young adults. A seven-year collaborative investigation indicates that intensive irradiation of the primary bone tumor can be combined with drug therapy to prevent the spread of cancer to other areas of the body. An increasing number of patients treated in this way are now living without recurrence of disease.

In addition to Ewing's sarcoma of the bone, other cancers which occur in children—Wilms' tumor, neuroblastoma, and retinoblastoma—are often cured with adequate radiation therapy given together with chemotherapy, or surgery and chemotherapy. Results of irradiation combined with chemotherapy have been encouraging in the treatment of patients with metastatic Wilms' tumor, a type of childhood cancer of the kidney. Drug treatment given before and after radiotherapy has helped arrest retinoblastoma, a cancer of the eye, and preserved useful vision in children whose prospects for sight were otherwise unfavorable. Neuroblastoma, a cancer of the sympathetic nerve tissue that usually occurs among children, is radiosensitive and often can be eradicated by combining irradiation with chemotherapy.

An emerging mode of treating cancer is immunotherapy. In this approach, stimulation of the immune mechanism provides the body with assistance in rejecting the tumor. For example, preliminary research with a tuberculosis vaccine, known as BCG (bacillus Calmette-Guerin), suggests its potential usefulness in the treatment of some cases of acute leukemia of childhood and of a malignant condition called melanoma. Results have been reported in only a small number of patients, however, and thus far are equivocal. Further studies are in progress to establish the effectiveness of this approach.

Rehabilitation

Prior to the National Cancer Act of 1971, no national program existed for rehabilitation of the cancer patient. Some State and voluntary agencies do provide excellent rehabilitation services to limited numbers of cancer patients. However, only a few institutions in the country are capable of providing a full range of rehabilitation services to cancer patients.

During the past year, a comprehensive planning effort was initiated to develop a national rehabilitation program specifically for cancer patients. More than 100 rehabilitation experts, social service professionals and former cancer patients cooperated with NCI in defining specific rehabilitation research and demonstration projects.

Research and demonstration efforts will be directed toward changing pessimistic and fatalistic attitudes on the part of the medical profession and the public toward the cancer patient. Rehabilitation facilities, techniques, and educational programs for rehabilitation professionals will be developed. And projects will be supported to provide rehabilitation services to cancer patients in remote areas of the country, as well as in major cancer centers.

Delivering Research Accomplishments to the People

Parallel in importance to research is the task of placing all usable information and skills in the hands of medical practitioners. The National Cancer Act of 1971 underscored this effort in providing for additional ways of expanding and expediting the translation of research results into effective clinical practice. Specifically, the Act authorizes the development of new comprehensive research and demonstration centers and the expansion of a specially identified cancer control program.

Cancer Centers Program

The present centers program, which began in 1961, supports a broad range of specialized preclinical and clinical research activities in 47 institutions. Because the 1971 Act provides for 15 new clinical research and demonstration centers, the National Cancer Institute, in conjunction with the National Cancer Advisory Board, defined two major categories of cancer centers: comprehensive national research and demonstration centers, also called Comprehensive Cancer Centers, and specialized cancer centers.

By means of community outreach activities, Comprehensive Cancer Centers will provide coordination and leadership within their geographic regions to assure the availability of complete care for inpatients and outpatients with cancer. They will be responsible for coordinating multiple sources of support for educational, clinical, and research activities to produce a broad attack upon the complex problems of detection, diagnosis and treatment. Through a constant flow of scientific information, progress made in these Centers will benefit cancer patients throughout the country.

Cancer Control Program

To close the gap between cancer research and the practical application of research findings, in and out of centers, the National Cancer Act of 1971 authorizes a Cancer Control Program. This new program encompasses projects of cancer prevention, detection and diagnosis, and treatment and rehabilitation. Most activities will be aimed at controlling the occurrence and impact of the ten leading causes of cancer deaths in this country: cancers of the lung, colon, breast, pancreas, prostate, stomach, ovary and rectum, plus the leukemias and lymphomas. Toward these ends, provisions will be made for the education of health professionals and the public, demonstrations to the public and medical community, the development of model systems for the treatment and management of cancer patients, and research seeking more effective means to utilize present knowledge about cancer.

The new Act provides discrete program recognition, separate funding, and specific, expanded responsibilities and authorities for these activities. The Cancer Control Program was established in 1972 within the Office of the Director of the National Cancer Institute, and began operations with the guidance of appropriate advisory committees composed of professional experts and public leaders.

The Cancer Control Program has begun to define other projects that can be started rapidly and have an impact in bringing proven research findings directly to the benefit of cancer patients. These include demonstration projects in rehabilitation; telephone consultations linking physicians in practice with cancer specialists; and the coordination of a geographic area's medical facilites to provde comprehensive cancer detection services for the population. Parallel efforts are being launched to identify and establish cooperative linkages with cancer control activities operated by other agencies—Federal, State and local—and by voluntary and professional groups.

Cooperative Programs

During the years since the passage of P.L. 92–218, an unparalleled level of activity tied together the work and mission of the National Cancer Institute with those of numerous Federal, State and local governmental agencies and with many private voluntary and professional organizations. In addition, again following the mandate of the National Cancer Act of 1971, NCI has expanded its cooperative efforts in the international sphere.

NIH

As a part of the largest biomedical research and development agency of the Federal Government, the National Cancer Institute continues to cooperate with the other elements that comprise the National Institutes of Health. There is a sharing of scientific knowledge as well as common concerns.

Activities in other institutes that provide the basis for close relationships and common interests among NCI scientists and their colleagues include:

Brain tumor research at the National Institute of Neurological Diseases and Stroke

Research on hormonal relationships to cancer at the National Institute of Child Health and Human Development

Cancer-related viral and immunologic studies at the National Institute of Allergy and Infectious Diseases

Oral cancer studies at the National Institute of Dental Research

In addition, cancer research has been furthered by the broad programs of the National Institute of General Medical Sciences and the other Institutes in support of research in the basic biomedical sciences. The multitude of approaches to the control of cancer have benefited and will continue to benefit from fundamental studies in many fields of science.

Interagency Activities

As indicated in foregoing sections of this report, substantial progress has already been made in coordinating cancer research and control activities conducted by Federal agencies as well as those of voluntary organizations.

Other specific arrangements made since the passage of Public Law 92–218 include a collaborative program for information exchange and cooperation in research areas focusing on environmental chemicals that cause cancer. In addition to NCI, the agencies involved are the Food and Drug Administration, the Environmental Protection Agency, the National Institute of Environmental Health Sciences, the National Institute of Occupational Safety and Health, and the National Center for Toxicological Research. Also, the Atomic Energy Commission, the Department of the Army, the Occupational Safety and Health Administration of the Department of Labor, the Department of Agriculture, and others.

Cooperation in a variety of other activities is also in effect with the Veterans Administration, Health Services and Mental Health Administration, and the Office of Naval Research. NCI, for example, provided funds to the U.S. Naval Research Laboratory in Washington, D.C., to make appropriate modifications of a cyclotron and associated facilities for preclinical research with fast neutrons.

State and Local Agencies

NCI has utilized much of the material and data that have been provided through cancer registry programs of several states. This information has provided valuable assistance in epidemiological studies conducted through the NCI, including the Third National Cancer Survey.

Cooperative activities with State and local health agencies, for screening and diagnosis, are now ongoing. The educational role that these agencies play in informing the public of the necessity of early detection of cancer symptoms is vital to the mission of the Cancer Control Program.

Voluntary Groups

There are a number of important private organizations, such as the American Cancer Society, the Leukemia Society of America, the Damon Runyon Cancer Foundation, the Candlelighters, and a large number of local and regional groups, each of which supplements and complements Federal cancer programs in effective and important ways. Through these organizations millions of Americans raise funds and do voluntary service in support of cancer research, professional and public education about cancer, and patient services.

The American Cancer Society is a unique organization because of its size, and because it so successfully bridges the lay and professional communities to conduct extensive and comprehensive programs ranging from public education about cancer, to support of scientific research. Its programs reach into cities and towns across America, thereby adding a dynamic and crucial dimension to the National Cancer Program. Although NCI has collaborated with the American Cancer Society and other voluntary organizations for many years, the National Cancer Act of 1971 calls for a new level of coordinated endeavors. Toward this end, NCI and the American Cancer Society have planned and are cofunding a network of projects for breast cancer detection as part of the NCI's Cancer Control Program.

International Activities

International activities of the National Cancer Institute have been specially highlighted since the passage of P.L. 92–218 by an important new program of cooperation between the United States and the Soviet Union. As a result of the President's summit meeting in Moscow early in 1972, a U.S.–U.S.S.R. health agreement was signed. This agreement called for sharing results from cancer, heart disease and environmental studies. The Institute has followed through on this initiative, and specific joint activities are under way in chemotherapy, virology, immunology and genetics of tumor cells. These include:

Exchange of specialists, including short-term visits of senior scientific investigators of corresponding institutes for the development of concrete plans for cooperative research and for familiarization with results of ongoing research; and long-term visits by young specialists for detailed study of particular problems.

Exchange of antitumor agents for preclinical and clinical study and materials such as viruses, reagents, and biological specimens for basic research.

Joint meetings for discussion of specific questions of the chemotherapy and viral origins of diverse types of cancer.

Joint publications on cancer virus research and chemotherapy.

Exchange of information on chemotherapy and virology.

The International Union Against Cancer, with headquarters in Geneva, Switzerland, and the International Agency for Research on Cancer (IARC), with new facilities in Lyon, France, are receiving financial support from NCI. So, too, is the European Organization for Research on Treatment of Cancer. During the past year, for example, in collaboration with the Union and the World Health Organization, NCI sponsored a conference on childhood cancers. Major recommendations from that conference will be implemented by some 80 countries throughout the world and are expected to have considerable impact on the course of childhood cancer research.

II. Need for Legislation—Hearings

The National Cancer Act of 1971 expires June 30, 1974. On January 24, 1974, Senators Kennedy and Javits introduced S. 2893, the National Cancer Act of 1974, designed to extend and improve the expiring authority for an additional three years.

Hearings were conducted by the Senate Health Subcommittee on January 30, 1974, on S. 2893. Testimony in support of the legislation was received from the following witnesses:

1. The Administration.
2. The President's Cancer Panel.
3. The Candlelighters.
4. A panel of cancer center directors including:
    Dr. Emil Frei III, Director, Children's Cancer Research Foundation, Boston, Massachusetts.
    John Durant, M.D., Director, Comprehensive Cancer Center, University of Alabama, Birmingham, Alabama.
    Dr. Jesse L. Steinfeld, Chairman, Department of Oncology, Mayo Clinic, Rochester, Minnesota.
5. The Association of American Medical Colleges.
6. American Cancer Society.

III. Description of the Committee's Bill

The provisions of S. 2893, as introduced, included the recommendations of the National Cancer Advisory Board and the President's Cancer Panel.

Basically, the National Cancer Advisory Board and the President's Cancer Panel recommended that the program be extended for an additional three years with increased funding levels (See section V); that the current limitation in the Act for 15 comprehensive cancer centers throughout the nation be removed; that the Act be clarified to assure its continuation of Federal support for the training of cancer researchers of the future; that the authority in the Act respecting construction assistance be clarified so as to explicitly permit the construction of basic research facilities; that the authority of the Director of the National Cancer Institute to employ expert consultants be increased from 50 to 100 such experts; and that the authority of the Director of the National Cancer Institute be streamlined in order to permit the awarding of grants which do not exceed $35,000 in direct costs.

In executive session the Committee further amended the bill by including a number of provisions which were suggested by one or more of the witnesses who testified January 30, 1974. The Committee amendments are as follows:

1. The Committee has extended the authority of the National Institutes of Health to let research contracts which expires June 30, 1974. The Committee has permanently extended this authority.
2. The Committee has amended section 407(b) of the Act by including where appropriate data respecting nutritional programs for persons under treatment for cancer.
3. In order to assure an adequate number of competent personnel to administer the national cancer program, the Committee has amended section 407(b) of the Act by including the number and types of personnel necessary to carry out the program in the submission of the annual budget estimate for the program to the President.
4. The Committee has also amended section 410A(a) to assure that contracts be subjected to the peer review process.
5. The Committee has amended section 407(b) by including authority which requires the Director of the National Cancer Institute to conduct and contract for programs to disseminate and interpret information respecting cancer.
6. The Committee has amended section 454 of the Act to require the Senate to advise and consent in respect to the appointment of future directors of the National Institutes of Health.
7. The Committee has included an amendment which would permanently extend the expiring section 601 of Publc Law 91–296 respecting the availability of appropriations for the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Act of 1963.
8. Finally, the Committee has amended Title IV of the Public Health Service Act by establishing new authority which proposes to establish the President's Biomedical Research Panel to be composed of the chairman of the President's Cancer Panel and 4 members appointed by the President who are exceptionally qualified to appraise the biomedical research program of the National Institutes of Health (including the research program of the National Institute of Mental Health). It further requires that at least three members of the President's Biomedical Research Panel shall be distinguished scientists or physicians. The panel shall monitor the development and execution of the biomedical research programs of NIH and shall report directly to the President. Any delays or blockages in the rapid execution of the NIH research program shall immediately be brought to the attention of the President and the Congress. At the request of the President, the panel shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Institutes of Health.

IV. Committee Views

A. *President's Biomedical Research Panel*

The Committee is alarmed that the integrity and vitality of this Nation's biomedical research program conducted largely by the National Institutes of Health is now threatened. The Committee believes that the Administration's budgets of the last several years, now seriously call into question this Nation's leadership in the quest for new knowledge upon which the medical sciences are based.

In enacting the National Cancer Act of 1971 the Committee intended to maximize the benefits of additional research opportunities respecting cancer. The Committee did not intend that increases for cancer research be funded at the expense of equally meritorious other biomedical research. Regrettably though, this Administration has chosen to consistently pursue such an ill-advised and short-sighted policy.

Based upon testimony which the Committee received at its hearings on S. 2893, and based upon subsequent communications the Committee has received (see No. IX—Appendix), the Committee believes decisive action is necessary to legislatively remedy this situation.

Accordingly, on February 19, 1974, Senator Kennedy, along with Senators Beall, Javits, and Schweicker, introduced S. 3023, a bill to to establish a President's Biomedical Research Panel to oversee and monitor the biomedical research program of the National Institutes of Health (including the research programs of the National Institute of Mental Health). This panel is directly modelled after the existing President's Cancer Panel and includes the chairman of the President's Cancer Panel as one of its 5 members.

The Committee believes that the President's Biomedical Research Panel will be as effective as the President's Cancer Panel has been under the remarkable leadership of its Chairman, Mr. Benno C. Schmidt.

In testimony before the Committee, the Association of American Medical Colleges indicated:

> The Association expressed its concern about the possible adverse impact that the singling out of one institute for special status and authority would have upon the other institutes and divisions at the National Institutes of Health. During the past few years, budget requests of staff positions for the National Cancer Institute have increased dramatically, while the total budget request and staffing for the remaining research components of the NIH have been reduced. The full meaning of this situation is not clear, but the Association is nonetheless deeply concerned about its implications because of the Association's concern for the welfare of all of the NIH research programs. In order for the cancer program to be effective, it must have imput from the other bioscience disciplines. If these activities are not adequately staffed and funded, the effectiveness of the cancer program must necessarily be impaired.
>
> The Association and its membership are in agreement that extensive biomedical research efforts are essential if medical science is to discover the causes and to develop cures and treatment for this complex of killer diseases.
>
> The Association has repeatedly stressed that the basic causes and nature of the cancerous process are unknown. The nature of cancer is deeply embedded in the most elemental

life processes and is an obscure and complex part of the life cycle. Major further progress in the conquest of cancer is, in the final analysis, dependent upon greater understanding of the intricate working of the basic life cell and its responses to both internal and external forces.

It is important to realize that the new leads which seem to offer promise for advances in cancer have emerged in scientific fields which at the same time were far removed from the mainstream of scientific effort in cancer. These new efforts are derived from, and are dependent upon, scientific achievements in the fields of virology, immunology, genetics, and cell biology. No one can predict with certainty the fields from which will come the findings that will provide further insights into the nature of cancer. All bioscientists, however, will agree that real progress in understanding cancer can only come through greater understanding of the fundamental life processes of which it is a part.

The national attack upon cancer cannot be fought exclusively with programs sponsored by the National Cancer Institute. Cancer research is also dependent, in part, upon advances in the various biosciences which are sponsored by the other institutes at the NIH—particularly the general basic research programs of the National Institute of General Medical Sciences.

The Administration's failure to perceive the importance of the other NIH disciplines in the national attack against cancer is evident not only in the lowered budgets of these institutes, but also in the distribution of staff positions within the NIH. Over the past several years, the NIH as a whole has suffered an outright loss of approximately 600 permanent fulltime staff positions. In addition, over 350 more positions have been transferred from the other institutes of the NIH to the NCI and the National Heart and Lung Institute. The net result has been a loss of approximately 950 staff positions within the other institutes of the NIH—a loss which has seriously compromised the ability of the NIH staff to administer the programs under its direction.

The impact of the Administration's decisions on the morale and effectiveness of NIH administrators is clear. The national biomedical research program established by the Congress has been stymied by administrative fiat. The repeated attempts to terminate research training programs, abolish peer review, and reorganize staffing patterns indicate all too clearly that biomedical research and the nation's health do not hold a high priority within this Administration. Such an attitude cannot be allowed to stand unchallenged.

The Secretary of Health, Education and Welfare, the Honorable Caspar W. Weinberger, also testified in respect to the need to maintain the integrity of biomedical research when he stated:

> NCI operations are only one of the avenues of approach. The understanding of the abnormal growth and spread of

cancer is inextricably linked to the biology of normal cells. The National Cancer Act recognized that, "the present state of our understanding of cancer is a consequence of broad advances across the full scope of the biomedical sciences." This ranges from the molecular biology of genetic control to the biochemistry of cell membranes, metabolism, and immunology. The National Institute of General Medical Sciences, the National Institute of Allergy and Infectious Diseases, the National Institute of Arthritis, Metabolism, and Digestive Diseases, along with the National Cancer Institute and the other Institutes, are responsible for exploring these fundamental life processes through support of basic research. These processes are still far from being fully understood.

Mr. Benno C. Schmidt, Chairman of the President's Cancer Panel, also testified in respect to this problem area when he indicated:

> We have also been deeply concerned about the cuts which have occurred in the budgets of General Medical Sciences, Allergy and Infectious Diseases, Arthritis and Metabolic Diseases, and the other Institutes. Neither the cancer program nor biomedical research in general can thrive if these Institutes are not healthy. At the time we were urging on the Congress and the Administration a greater effort in cancer, we were very explicit in the position that the increased cancer effort should not be at the expense of other biomedical research. I am not sure that the cancer effort has been the cause of these other Institutes receiving less, but it is difficult to prove the contrary when the cuts have in fact taken place. Also, regardless of what would have been the case in other circumstances, the fact is that this country cannot afford to reduce the research efforts of these other Institutes at this time. Therefore, we have urged the Office of Management and Budget to give the highest priority to budget increases for these Institutes. I am hopeful that the Budget for 1975 will include increased appropriations for these Institutes.

The most recent example of the effectiveness of the President's Cancer Panel can be found in a letter from President Nixon to Secretary Weinberger on January 29, 1974, (the day before the Committee's hearings on S. 2893) which states in part:

> I have followed progress on the attack on cancer carefully. In addition, I have met with Benno Schmidt and other members of the President's Cancer Panel and have reviewed their report and the report of the National Cancer Advisory Board with great interest. It is my feeling that considerable progress has been made in the attack on cancer in recent years and that there is much hope for additional knowledge that can be developed in the future.
>
> That is why I plan to ask for an additional $100 million above last year's request of $500 million for the expanded attack on cancer in the budget that I will be submitting to the Congress next Monday. I realize that this will result in spending over $415 million more for this effort next fiscal

> year than was available the year I took office, but I think the dual goals of an expanded research effort to find the causes of cancer along with more intensive demonstration and education programs to help prevent and control cancer warrant this support.

The genesis of the authority for the President's Cancer Panel dates back to the actions of the Committee on Interstate and Foreign Commerce of the House of Representatives in its bill to authorize the establishment of the National Cancer Program of 1971. In its report, 92–659, to accompany H.R. 11302, the House Committee stated:

> The bill provides for a three-man President's Cancer Attack Panel, whose duty it will be to monitor the development of the national cancer attack program and report directly to the President. The Committee recognizes the fact that the President of the United States has many responsibilities and although the attack on cancer is a significant one, it would be impossible for him to follow its progress on a day-by-day basis. Therefore, direct oversight of the program will be accomplished through this panel of highly qualified individuals, who will meet at least twelve times a year, to evaluate the program and make suggestions for improvements, as well as to report directly to the President on any delays or blockages in rapid execution of the program.
>
> The House Committee also went on to comment:
>
> The Committee recognizes that cancer, while it is the number one health concern of the American people, is not the only or even the major killer disease. Many eminent scientists have testified that promising leads now existing in cancer research are paralleled in other areas of biomedical research. The strengthening of cancer research should in no way diminish research efforts in other areas of biomedical research.

Biomedical research conducted and supported by the National Institutes of Health has long been recognized as an outstanding American contribution to the worldwide effort against the physical and mental diseases and impairments of man. Recently a number of factors have emerged which threaten the continued excellence of the NIH. Establishment of the President's Biomedical Research Panel is designed to correct those factors.

Within the NIH, problems have arisen in attempts to make effective decisions regarding allocations of resources. Judgments have had to be made for achieving optimum balance within finite resources. Choices have had to be made between individual projects versus multifaceted program projects and centers, between research versus training, between basic research versus applied research and development, between investigator-initiated research versus targeted or NIH-directed programs, between grants versus contracts, between scientific disciplines versus disease categories. In addition, the NIH programs of research have faced increasing difficulties due to such factors as rapidly escalating costs of research and training efforts, increased competition for available funding due to increased numbers of institutions but limited increases in funds, differences of opinion regarding selection of the most appropriate national goals for health, bases for new targeted or directed programs questioned by various sectors of the scientific community, needs for investigators to improve definition and explanation of their work to the satisfaction of broader audiences, and implications of government control inherent in the trend toward forward planning and direction of programs.

The coming together of these problems has resulted in intense pressures on the NIH. These pressures have been aggravated by singling out two of the 12 research institutes and divisions for special national emphasis because of their work with major killer diseases: cancer and heart disease. Targeting special attention on segments of biomedical research—while highly appealing in one sense—disregards the interrelationship of research generally and of advances in knowledge of specific diseases. An example of this is research on diabetes. While the principal NIH Institute responsible for investigating diabetes is the National Institute of Arthritis, Metabolism and Digestive Diseases, numerous other NIH Institutes also conduct and support research directly or generally related to diabetes. Moreover, a key scientific breakthrough in diabetes may come in research totally unrelated to the disease. Thus, a decision to increase funds and staff for the NIAMDD in order to advance a national attack against diabetes might in fact have exactly the opposite effect. The effect might be to set back diabetes research. This is particularly likely if funds and staff for other research institutes and divisions are sacrificed to increase the resources available to the NIAMDD.

The complex set of interconnecting relationships among various fields of biomedical research was perhaps best described by a former NIH Director, Dr. James A. Shannon:

> The inescapable fact is that biomedical science is a complex, interrelated, n-dimensional universe. One can wish it were not, but it is. True, there are within it some large confluences of great density, such as cancer, but even this is inseparable from other large islands such as aging, human development, etc., which in turn relate to arteriosclerosis and stroke. To look at any isolated fragment, no matter how large, apart from its innumerable major and minor connections in the vast network of relationships, would be at best naive and at worst selfdefeating. This reality animates the processes that the scientific community has institutionalized in the NIH, to view biomedical sciences, to the extent possible, holistically and thereby to assess opportunities not in isolation but in the context of the past state of the art and recent changes in contiguous domains of science.

Since enactment of the National Cancer Act of 1971 and of the National Heart, Blood Vessel, Lung and Blood Act of 1972, there has been a measurable shift in the NIH research effort. Instead of advances over the broad front of NIH research activities, the NIH generally has stood still, while the National Cancer Institute and the National Heart and Lung Institute have surged ahead. Comparisons of fiscal 1972 appropriations and the fiscal 1975 budget requests illustrate the point. Funding for the National Cancer Institute is up 61 percent. Funding for the National Heart and Lung Institute is up 37 percent. Funding for all other research institutes and divisions is down $2.3 million. NIH staffing levels tell a similar tale. Over the past several years the NIH as a whole has been forced to cut back some 600 permanent full-time staff positions. In addition, more than 350 additional positions have been transferred from other institutes and divisions to the NCI and the NHLI. The net result has been a loss of approximately 950 staff positions within the other institutes of the NIH—a loss which has seriously compromised the ability of the NIH staff to administer the programs under its direction. These decisions have been ordered and approved by the Office of Management and Budget, despite its lack of staff experts in biomedical research. The OMB professional staff does not include a single physician or PhD in the biological sciences.

The President's Biomedical Research Panel is designed to deal with these problems before they further disrupt the nation's biomedical research effort. The Panal is to monitor the complete range of research activities of the NIH. Recognizing the indivisible, unitary nature of biomedical research, the Panel is to assess the research programs of the various institutes and divisions in light of the available resources and of the scientific opportunities across the whole front of biomedical science. The Panel is to have direct access to the President and is to identify for his consideration and possible action any problems that threaten the coherent development and prosecution of an effective biomedical research effort. The Panel is to be particularly mindful of presently identified problems and is to be alert to, and shall be responsible for identifying as rapidly as possible, the development of new problems which threaten or may threaten the continued excellence of the National Institutes of Health.

The Committee recommends that the President, in selecting the appointed members of the President's Biomedical Research Panel, solicit the names of appropriate candidates from groups of experts in the scientific and biomedical fields, such as the National Academy of Sciences.

The Committee's recommendation for establishment of a President's Biomedical Research Panel stems in part from experience under the National Cancer Act, since the growth of the cancer program has clearly been at the expense of other NIH research activities. More importantly, however, it represents the Committee's concern that the present Administration does not understand the importance of a balanced, stable biomedical research program, and that the consequences of this misunderstanding will be far reaching and difficult to remedy.

The Panel of Consultants on the Conquest of Cancer emphasized in its initial report to this Committee that while a national cancer program would demand additional resources, "It is of utmost importance that the financing of this program not result in cutbacks in other health programs." Yet the present Administration has in effect reduced the resources available to other NIH Institutes (except the National Heart and Lung Institute). A major task of the new panel will be to call to the President's attention the consequences of such shortsighted policies, and to inform the Congress—and the public—of obstacles to continued progress across the broad spectrum of biomedical research for which NIH is responsible.

A broader issue to which this provision is addressed is the unavailability of scientific expertise and advice to those Administration officials who make the ultimate decisions about funding and program emphasis in health research. The dissolution of the White House science advisory apparatus has left a major gap in the chain of advice and command affecting NIH programs. The Committee feels that the decisions affecting the level and direction of NIH efforts are far too complex to be treated simply as part of "health," "HEW," or even "human resources" budgets. What is needed is a strengthening of the *interpretive* process, through which the demands of scientific inquiry and management of the nation's resources are melded into responsible public policy. At present the "health" dimension of NIH activities is reviewed at higher levels in reasonably responsible fashion, but there is no voice for the underlying and essential science dimension, as may be seen by an examination of NIH budget and staffing patterns over the last five years.

No responsible scientific investigator, at NIH or elsewhere, would deny that the ultimate goal of publicly supported biomedical research is to improve the health of our citizens. The Administration and the Congress have become increasingly concerned—and properly so—with the quality and availability of health services. The Committee notes with regret, however, that the Department appears to be ignoring the warning of the NIH that service needs ". . . should not be viewed as competitive with those of the research programs which have made them possible. . . . The goose and the golden egg—medical research and health services—are not alternatives. They are a continuing sequence essential to the progress and well-being of man." (*The Advancement of Knowledge for the Nation's Health: A Report to the President on the Research Programs of the National Institutes of Health*, 1967).

Despite this warning, the various HEW organizational arrangements have traditionally lumped together all "health" programs, so that research in effect does compete with service programs, and the first level of Departmental analysis involves budget trade-offs that are inherently exchanges of non-commensurable quantities. Even more disturbing is the fact that NIH funds constitute a highly visible and substantial proportion of the shrinking HEW "controllable" budget, so that biomedical research has become increasingly vulnerable.

The point to be made is not that other HEW programs are not meritorious, but that level of the nation's biomedical research effort is measured not by a single year's budget, but by the quality of the institutions and individuals performing the research. The Committee believes that this Administration, in its laudable concern for reexamination of the proper Federal role in many areas of national life, has overlooked the importance of stable support and reasonable program growth in the maintenance of a pool of excellent institutions and talented investigators. The Committee hopes that the panel will be able to articulate the importance of maintaining and strengthening the nation's biomedical resources.

It is significant that the initiative for Federal medical research—beginning with establishment of the NCI in 1937—has traditionally come from the Congress, as has the concern for the long-range wellbeing of the biomedical research enterprise. The Committee intends that the panel will strengthen the Executive's capacity to assess the long-term needs of biomedical research. Certainly both Branches will have an even greater need for the long view as they continue to work to resolve the related—but fundamentally different-issues of the financing and organization of health care.

The panel's specific task is to appraise the biomedical research program of the NIH. However, the Committee believes that the panel could play a number of additional, useful roles. For example, it could add its advice to the process by which NIH identifies areas of scientific inquiry suitable for increased emphasis. It could also serve to promote coordination of related research by NIH and other agencies. Certainly the Committee intends that its evaluation of NIH research take place in the context of all Federally supported biomedical research.

The Committee is aware that performance of the panel's task will require considerable staff support. The Committee expects that the Director of NIH, will provide the needed support and that sufficient *new* positions will be made available to him for this purpose.

At the time the Committee met in executive session to take final action on S. 2893, the Acting Secretary of the Department of HEW, the Honorable Frank Carlucci, wrote to the Committee expressing the Department's objections to S. 2893. Specifically with respect to the President's Biomedical Research Panel, he stated:

> Dear Mr. Chairman: It is our understanding that the full Labor and Public Welfare Committee will hold an executive session in the near future on several bills which are of considerable interest to the Department. Many features of these bills are desirable and have our support. But we strongly oppose certain provisions which have been included by the Health Subcommittee or are expected to be considered in the full Committee. This letter will explain briefly our opposition to certain undesirable features of these bills.
>
> *S. 2893—Extension of Cancer Research Authority*
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> The Administration supports extension of the authority for the expanded cancer research effort, and we so testified before the Senate Health Subcommittee on January 31, 1974. However, the bill which has been reported to the full Committee includes the provisions of a separate bill, S. 3023, raising entirely new issues. S. 3023 would establish a three-member Presidentially appointed panel (the President's Biomedical Research Panel) to oversee the biomedical research activities carried on by the National Institutes of Health (including the National Cancer Institute). The Panel would report directly to the President and could bring to the attention of the Congress directly any "delays or blockages in rapid execution of the biomedical research programs of the National Institutes of Health."

> I believe that the National Institutes of Health are well-run and well-managed, and that their programs are easily accessible to Congressional oversight and review. I do not believe that the establishment of a Presidentially appointed Panel would either enhance Congressional control or aid in the administration of the health programs of HEW. To the contrary, it would make program administration more complicated and inefficient. Moreover, the proposed dual reporting relationship cannot but result in undermining the responsibilities of the HEW Secretary and the Assistant Secretary for Health.
>
> For these reasons, I strongly oppose the creation of such a Presidential Panel. I would feel constrained if S. 2893 is sent to the President with provisions for such a Panel to recommend to the President that he veto that bill, in spite of our strong support for an extension of the cancer research authority.

In recognition of this serious challenge by the administration the Committee voted on the question and in a roll call vote unanimously endorsed the inclusion of the authority for the President's Biomedical Research Panel as Title II of S. 2893.

The Committee believes that it is in the Nation's interest for this panel to come into existence as quickly as possible. The Committee does not believe it is in the Nation's interest, if the President were to veto the National Cancer Act of 1974.

B. *Availability of Funds*

The Medical Facilities Construction and Modernization Amendment of 1970 (the 1970 Hill-Burton amendment) contained a provision designed to assure the availability and expenditure of appropriated health funds. This provision, unless amended, would expire on the first of July, 1974. S. 2893 would permanently extend it. The Committee has felt it appropriate to do this in view of the recent Administration record of impoundment of funds and the Administration's express desire to terminate many health programs prior to Congressional review of them.

The provision which requires obligation and expenditure of the appropriated funds is Section 601 of the Medical Facilities Construction and Modernization Amendments of 1970 (P.L. 91-296), 42 U.S.C.A. §§ 201 note and 2661 note ("Section 601"). Section 601 reads as follows:

> Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this section, funds appropriated for any fiscal year ending prior to July 1, 1973, to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88-164, as amended) shall remian available for obligation and expenditure until the end of such fiscal year.

Section 601 has been understood by the Congress, as preventing any withholding of appropriated funds. The Section was initially inserted into the bill which became the Medical Facilities Construction and Modernization Amendments of 1970 by the Senate. Although there was no comment regarding Section 601 when passed by the Senate, the subsequent Conference Report stated as follows:

> ### AVAILABILITY OF APPROPRIATIONS
>
> The Senate amendment would have provided that funds appropriated for any fiscal year to carry out any program under the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, certain acts relating to Indian health programs, the Vocational Rehabilitation Act, the Clean Air Act, the Solid Waste Disposal Act, and Title V of the Social Security Act would remain available for obligation and expenditure until the end of the fiscal year for which appropriated.
>
> The conference substitute is the same as the Senate amendment, except that it is limited to funds appropriated for fiscal years ending before July 1, 1973, and applies only to funds appropriated to carry out programs under the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. The purpose of the amendment is to prevent administration imposed freezes, reductions and rollbacks from applying to health programs authorized under these Acts. Where a program authorizes availability of appropriations for more than one fiscal year, the conferees intend that the amendment shall apply to the entire period covered by the appropriations.

After passage of the bill, it was vetoed by the President on June 22, 1970. He stated in his veto message:

> One of the most unacceptable provisions of the bill is in Section 601. Here, the Congress insists that funds appropriated for any fiscal year through 1973 to carry out the programs involved must be spent. In addition to restricting flexibility in management of federal expenditures, this provision would interfere with my ability to comply with the limitation on total 1971 spending that has already passed the House of Representatives and has been reported by the Senate Appropriations Committee. The amount of money involved is large; Section 601 would affect $2.5 billion of my budget request for the Department of Health, Education and Welfare for 1971. This kind of provision puts the Congress in the position of withdrawing with one hand the authority necessary to do what it requires with the other. I ask the Congress to eliminate Section 601.

With this common understanding as basis for action, the House and Senate each overrode the Presidential veto on June 25 and 30, 1970, respectively.

Section 601 was then scheduled to expire June 30, 1973. Last year the Congress extended the authority for an additional year as a part of the Public Health Service Extension Act of 1973, Public Law 93-45.

In summary, it is unarguable that, assuming there have been public moneys validly appropriated, Section 601 mandates that such funds must be obligated and expended.

There was no general appropriation act enacted by Congress for fiscal year 1973 for the programs administered by the Department of Health, Education and Welfare; although Congress on two occasions passed fiscal year 1973 appropriations acts for DHEW (H.R. 15417, H.R. 16654, 92nd Cong., 2d Sess. (1972), both were vetoed by the President. Thus the Congress enacted (and the President signed) a continuing resolution appropriating funds for such agencies, H.J. Res. 1234, 92nd Cong., 2d Sess. (1972), Public Law 92-334, which was extended four times to cover the entire fiscal year 1973.

Although Congress appropriated funds for the DHEW health programs for fiscal year 1973 and under Section 601 mandated the obligation and expenditure of all of such funds, the Secretary refused to obligate and expend the entirety of such funds, claiming that the need to control federal spending in order to curtail the rate of inflation and eliminate the need for a tax increase requires cutbacks in these particular programs, which he has characterized as either ineffective or nonessential. As a result, a number of legal actions were instituted, relying on the authority of Section 601, to force the release of the impounded health funds for obligation and expenditure. The legal actions were uniformly successful, and on December 19, 1973, President Nixon announced the release of all impounded funds, whether subject to legal actions or not. Section 601 clearly served an important function in this series of actions.

A summary of the legal actions brought under Section 601 is listed below:

> *National League for Nursing* v. *Ash* (D.D.C., C.A. No. 1316-73). Preliminary injunction entered July 10, 1973, requiring HEW to record as a Fiscal Year 1973 obligation the $21.7 million balance of the $38.5 million appropriated for grants to nursing schools. Final order entered November 19, 1973, requiring obligation and expenditure of funds.
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> *American Association of Colleges of Podiatric Medicine* v. *Ash* (D.D.C., C.A. No. 1139-73), consolidated with:
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> *American Association of Colleges of Pharmacy* v. *Ash* (D.D.C., C.A. No. 1244-73). (Association of Schools and Colleges of Optometry permitted to intervene as plaintiff.) Preliminary injunction entered June 27, 1973, requiring HEW to record as an obligation for Fiscal Year 1973 the unallotted balance of funds appropriated from grants to Schools of Podiatry, Pharmacy, and Optometry. On October 26, 1973, the court granted plaintiffs' motion for summary judgment requiring the allotment of $9,914,327.
>
> *Eastern Virginia Medical School* v. *Weinberger* (E.D. Va., C.A. No. 73-315-N). Plaintiff seeks the allotment of $240,000 for Fiscal Year 1973 and $180,000 for Fiscal Year 1974. The

statute involved is 42 U.S.C. 295f-1(a), concerning start-up assistance to schools of medicine, osteopathy, and dentistry. Plaintiff moved for summary judgment on November 1, 1973. Defendants answered on October 8, 1973.

Association of American Medical Colleges v. *Weinberger* (D.D.C., C.A. No. 1794-73 and 1830-73, consolidated). No. 1794-73 involves special project grants to medical schools under 42 U.S.C. 295f-2 (approximately $28.6 million at issue). No. 1830-73 concerns research grants, research training grants and fellowships to medical schools under 42 U.S.C. 241 and 242f (approximately $112.5 million is involved). On October 26, 1973, the court granted plaintiffs' motion for a preliminary injunction and granted a final judgment in favor of plaintiffs.

National Council of Community Mental Health Centers, Inc. v. *Weinberger* (D.D.C., C.A. No. 1223-73). Plaintiff's motion for summary judgment granted on August 3, 1973, requiring the obligation of approximately $50 million.

National Association for Mental Health, Inc. v. *Weinberger* (D.D.C., C.A. No. 1812-73). Plaintiff's motion for TRO denied on September 28, 1973.

National Association of Regional Medical Programs, et. al. v. *Weinberger* (D.D.C., C.A. No. 1807-73).

The Committee continues to strongly believe that the continuation of Section 601 is essential to assure the allocation, obligation, and expenditure of funds appropriated pursuant to the authorities of the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Act of 1963.

C. *Need for Additional Comprehensive Cancer Centers*

The Committee, as well as the vast majority of witnesses who testified before it, believes that to effectively implement Section 408(a), provision must be made to permit the designation of more than the 15 new Comprehensive Cancer Centers stipulated in the National Cancer Act of 1971. The question has been, how many Comprehensive Centers are needed to reach the greatest number of Americans without wasting valuable resources. Testimony delivered before the Committee indicates that based on population studies which have been carried out to determine the potential impact of Comprehensive Centers based on geographic distribution, a total of 35 would provide access to 75 percent of the population without requiring an overnight stay. Additional centers beyond this number would not substantially increase the potential access to Comprehensive Center programs. The Committee believes that no American should be denied first class cancer care simply because of where he may live. Equity demands that this limitation on the number of high quality cancer centers be removed.

D. *Need to Facilitate Administrative Management*

The Director of the National Cancer Program must be able to plan, manage, organize and assess the activities of the program with sufficient flexibility to maximize the program's efforts. The Committee is aware that a program the size and scope of the National Cancer Program will inherently have administrative requirements that, despite the soundness of the managerial theories involved, will create delays in implementation. Therefore, the Committee recommends the following changes in the law to allow the Director, NCI, additional latitude in the management of the program.

(1) The inclusion of indirect costs in the computation of $35,000 grants that the Director, NCI, can award without review and recommendation of the National Cancer Advisory Board. In fiscal 1973, as an example, the number of proposals eligible for funding under this provision would have been 258 instead of 179, permitting the Director to award those additional 79 prior to NCAB recommendation. This would save as much as two months from the usual time required in making an award.

(2) The striking out of the phrase "where appropriate" in Section 407(b)(7) to assure the continued supply of high quality cancer researchers.

(3) The inclusion of a provision to permit the NCI Director to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control.

(4) The increase of the number of consultant/expert appointments available to the NCI from 50 to 100 with specific recommendation to exclude these appointments from the regular position ceilings assigned to the NCI by the DHEW and NIH.

E. *Information Services*

The Committee is concerned about the loss of the independent authorities of the Director, NCI, to conduct a full range of communications, information and public affairs activities in support of the National Cancer Program. These authorities are important to the effective implementation of the Act, and are not to be subject to regulation or modification within the DHEW. Testimony before the Committee indicates such regulations, guidelines and rules do exist and therefore the Committee's bill offers new provisions to provide independence for the Director in this regard.

Although no specific changes in the law are included concerning Section 407(b)(4), the establishment of an International Cancer Research Data Bank, the Committee believes its information services amendment strengthens the ability of the NCI Director to fully implement this program and will watch the development of the program carefully over the three-year extension of the National Cancer Act.

Concern was expressed by the Committee as to the implementation of Section 407(b)(4), the establishment of an International Cancer Research Data Bank, and the development of a system for making its contents available to researchers from all nations.

The Committee was not satisfied with the Administration's testimony in this respect. The intent of Congress in this section was to establish a central system by which the Cancer research effort would be substantially assisted through the systematic storage of all Cancer research data, including information on past and present, successful and unsuccessful research projects.

Because the ICRDB would fully integrate information from all sources, it would facilitate and promote the exchange of Cancer research information among scientists and clinicians on a world wide basis. To date, the primary activities of the ICRDB project have been limited only to the identification of specific gaps in the existing information services systems throughout the world, and to the tentative development of products and services to fill these gaps.

While these tasks are properly part of the eventual building process, the Committee firmly believes that a concentrated and redirected effort must be made to bring together under a single roof the information in these scattered resource repositories, and to make their relevant contents fully and quickly retrievable with a single inquiry.

The Committee expects the National Cancer Institute to redirect its efforts and to make substantive progress to implement the clear directive of Section 407(b)(4) but with understanding and appreciation for prudent fiscal management.

V. Cost Estimates Pursuant to Section 252 of the Legislative Reorganization Act of 1970

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress) the Committee estimates that the cost which would be incurred in carrying out this bill is as follows:

NEW OBLIGATIONAL AUTHORITY FOR FISCAL YEARS 1975, 1976, AND 1977 UNDER S. 2893

[In millions of dollars]

	Fiscal year—		
	1975	1976	1977
National cancer program	750	830	985
Cancer control program	50	65	85
Total	800	895	1,070

VI. Tabulation of Votes Cast in Committee

Pursuant to section 133(b) of the Legislative Reorganization Act of 1949, as amended, the following is a tabulation of votes in Committee:

Motion to lay on the table the motion to delete Title II of the bill, thereby retaining the proposed authority respecting the establishment of a Presidential Biomedical Research Panel.

Yeas—16	**Nays—0**
Senator Williams	
Senator Randolph	
Senator Pell	
Senator Kennedy	
Senator Nelson	
Senator Mondale	
Senator Eagleton	
Senator Cranston	
Senator Hughes	
Senator Hathaway	
Senator Javits	
Senator Dominick	
Senator Schweiker	
Senator Taft	
Senator Beall	
Senator Stafford	

Motion to favorably report the bill to the Senate carried unanimously by voice vote.

VII. Section by Section Analysis of S. 2893

Section 2 of the bill amends Section 301(h) of the Public Health Service Act so as to permanently extend the expiring authority of the National Institutes of Health to let research contracts.

Section 3 amends Section 402(b) of the Public Health Service Act to require that only direct costs be included in the determination respecting whether National Cancer Institute grants are in excess of $35,000, thereby requiring peer review.

Section 4 amends Section 407(b) of the Act in the following ways:

1. By requiring the use of training stipends, fellowships, and career awards in the training of manpower in fundamental sciences and clinical disciplines respecting cancer.
2. By including where appropriate nutritional programs for persons under treatment for cancer in the National Cancer Institute's data systems, and
3. By requiring the inclusion of the number and types of personnel necessary to carry out the National Cancer Program in the submission of the annual budget estimate for the Program to the President.
4. By including a new paragraph 10 which requires the Director of the National Cancer Institute to conduct or contract for programs to disseminate and interpret information respecting cancer.

Section 5 amends Section 408(a) by removing the limitation respecting the establishment of new centers for clinical research, training and demonstration of advanced diagnostic and treatment methods relating to cancer.

Section 6 amends Section 409(b) by extending the authorization for the Cancer Prevention and Control Program through 1977 as follows:

1975—$50 million.
1976—$65 million.
1977—$85 million.

Section 7 amends Section 410 by—

1. Increasing the number of consultants the Director of the National Cancer Institute may call upon from 50 to 100, and
2. Including authorization to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control.

Section 8 amends Section 410A(a) by subjecting contracts to peer review.

Section 9 amends Section 410C of the Public Health Service Act to extend the authorization for appropriations for the National Cancer Program for an additional three years through 1977 as follows:

1975—$750 million.
1976—$830 million.
1977—$985 million.

Section 10 amends Part A of Title IV of the Public Health Service Act by adding at the end thereof a new Section 410D which permanently extends the expiring Section 601 of PL 91-296 respecting the availability of appropriations.

Section 11 amends Section 454 of the Public Health Service Act to require the advice and consent of the Senate respecting the appointment of the Director of the National Institutes of Health.

Section 201 amends Title IV of the Public Health Service Act by adding at the end thereof new Section 455 which establishes the President's Biomedical Research Panel to be composed of the Chairman of the President's Cancer Panel and four members appointed by the President who are exceptionally qualified to appraise the biomedical research program of the National Institutes of Health (including the research program of the National Institute of Mental Health). At least three members of the Panel shall be distinguished scientists or physicians. The Panel shall monitor the development and execution of the biomedical research programs of the National Institutes of Health and shall report directly to the President. Any delays or blockages in the rapid execution of the biomedical research programs of the National Institutes of Health shall immediately be brought to the attention of the President and the Congress. At the request of the President, the Panel shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Institutes of Health.

VIII. Changes in Existing Law

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as

repeated are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * * * *

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATION

* * * * * * *

(h) Enter into contracts [during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years,] including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

* * * * * * *

(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

(1) [in amounts not to exceed $35,000] *if the direct costs of such research and training do not exceed $35,000, but only* after appropriate review for scientific merit but without the review and recommendation by the National Cancer Advisory Board prescribed by section 403(c), and

(2) [in amounts exceeding $35,000] *if the direct costs of such research and training exceed $35,000, but only* after appropriate review for scientific merit and recommendation for approval by such Board as prescribed by section 403(c).

* * * * * * *

NATIONAL CANCER PROGRAM

SEC. 407. (a) The Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Program.

(b) In carrying out the National Cancer Program, the Director of the National Cancer Institute shall:

(1) With the advice of the National Cancer Advisory Board, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs.

(2) Expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise.

(3) Encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research.

(4) Collect, analyze, and disseminate all data (*including where appropriate nutritional programs for persons under treatment for cancer*) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

(5) Establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials.

(6) Support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States.

(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professions personnel, for participation in clinical and basic research and treatment programs relating to cancer, including [where appropriate] the use of training stipends, fellowships, and career awards.

(8) Call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

(9) (A) Prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for the National Cancer Program, *including the number and types of personnel necessary to carry out such program*, after reasonable opportunity for comment (but without change) by the Secretary; the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute, *and the allocation of personnel requested to carry out the National Cancer Program.*

(10) The Director of the National Cancer Institute shall conduct or contract for programs to disseminate and interpret on a current basis for practitioners and other health professionals, scientists, and the general public, scientific and other information respecting the cause, prevention, diagnosis and treatment of the disease or other health problem to which the activities of the Institute are directed. The Director of the National Cancer Institute shall issue such regulations as are necessary to carry out this activity.

(c) (1) There is established the President's Cancer Panel (hereinafter in this section referred to as the "Panel") which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

(2) (A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(B) The President shall designate one of the members to serve as Chairman for a term of one year.

(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

(3) The Panel shall meet at the call of the Chairman, but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

(4) The Panel shall monitor the development and execution of the National Cancer Program under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

SEC. 408. (a) The Director of the National Cancer Institute is authorized to provide for the establishment of [fifteen] new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

(b) The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 405), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) training (including training for allied health professions personnel), ad (4) demonstration purposes; but support under this subsection (other than support for construction) shall not exceed $5,000,000 per year per center. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each, after review of the operations of such centers by an appropriate scientific review group established by the Director of the National Cancer Institute.

CANCER CONTROL PROGRAMS

SEC. 409. (a) The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the diagnosis, prevention, and treatment of cancer.

(b) There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, **[**and**]** $40,000,000 for the fiscal year ending June 30, 1974, *$50,000,000 for the fiscal year ending June 30, 1975, $65,000,000 for the fiscal year ending June 30, 1976, and $85,000,000 for the fiscal year ending June 30, 1977.*

AUTHORITY OF DIRECTOR

SEC. 410. The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Board), in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act, is authorized—

(1) if authorized by the National Cancer Advisory Board, to obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than **[**fifty**]** *one hundred* experts or consultants who have scientific or professional qualifications;

(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years;

(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(5) to accept voluntary and uncompensated services;

(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institutions; [and]

(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally [.] *; and to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program.*

SCIENTIFIC REVIEW; REPORTS

SEC. 410A. (a) The Director of the National Cancer Institute shall, by regulation, provide for proper scientific review of all research grants, *contracts*, and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

(b) The Director of the National Cancer Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the National Cancer Advisory Board and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding calendar year and a plan for the Program during the next five years.

NATIONAL CANCER ADVISORY BOARD

SEC. 410B. (a) There is established in the National Cancer Institute a National Cancer Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the Office of Science and Technology, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or his

designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

(2) Eighteen members appointed by the President. Not more than twelve of the appointed members of the Board shall be scientists or physicians and not more than eight of the appointed members shall be representatives from the general public. The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the National Cancer Institute.

(b)(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of Appointment.

(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

(4) The Board shall supersede the existing National Advisory Cancer Council, and the appointed members of the Council serving on the effective date of this section shall serve as additional members of the Board for the duration of their terms then existing or, for such shorter time as the President may prescribe.

(c) The President shall designate one of the appointed members to serve as Chairman for a term of two years.

(d) The Board shall meet at the call of the Director of the National Cancer Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the National Cancer Institute with respect to the National Cancer Program.

(e) The Director of the National Cancer Institute shall designate a member of the staff of the the Institute to act as Executive Secretary of the Board.

(f) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

(g) The Board shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the National Cancer Program toward the accomplishment of its objectives.

(h) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for person in the Government service employed intermittently.

(i) The Director of the National Cancer Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 410C. For the purpose of carrying out this part (other than section 409), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; [and] $600,000,000 for the fiscal year ending June 30, 1974*; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30, 1976; and $985,000,000 for the fiscal year ending June 30, 1977.*

AVAILABILITY OF APPROPRIATIONS

SEC. 410D. Notwithstanding any other provision of law, unless enacted after the date of enactment of this section expressly in limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act (42 U.S.C. 201) or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (42 U.S.C. 2661) shall remain available for obligation and expenditure until the end of such fiscal year.

* * * * * * *

PART G—ADMINISTRATIVE PROVISIONS

DIRECTORS OF INSTITUTES

[SEC. 454. The Director of the National Institutes of Health and the Director of the National Cancer Institute shall be appointed by the President. Except as provided in section 407(b)(9), the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health.]

SEC. 454. (a) The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate. Appointees shall be eligible for reappointment.

(b) The Director of the National Cancer Institute shall be appointed by the President. Except as provided in section 407(b)(9), the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health.

SEC. 455. (a) There is established the President's Biomedical Research Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of (1) the Chairman of the President's Cancer Panel; and (2) four members appointed by the President, who by *virtue of their training, experience, and background are exceptionally qualified to appraise the biomedical research program of the National Institutes of Health (including the research program of the National Institute of Mental Health). At least three of the members of the Panel shall be distinguished scientists or physicians.*

(b)(1) Appointed members of the Panel who are appointed pursuant to clause (2) of subsection (a), shall be appointed for three-year terms, except that (i) in the case of the four members first appointed after the date on which this section becomes effective, two shall be appointed for a term of one year and two shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(2) The President shall designate one of the appointed members to serve as Chairman of the Panel for a term of one year.

(c) Appointed members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

(d) The Panel shall meet at the call of the Chairman, but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

(e) The Panel shall monitor the development and execution of the biomedical research programs of the National Institutes of Health (including the research program of the National Institute of Mental Health) under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the biomedical research programs of the National Institutes of Health (including the research program of the National Institute of Mental Health) shall immediately be brounght to the attention of the President and the Senate Committee on Labor and Public Welfare, the House Committee on Interstate and Foreign Commerce, the Senate Committee on Appropriations and the House Committee on Appropriations. The Panel shall submit to the President periodic progress reports on the biomedical research programs of the National Institutes of Health (including the research program of the National Institute of Mental Health) and annually a evaluation of the efficacy of the biomedical research programs of the National Institutes of Health (including the research program of the National Institute of Mental Health) and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Institutes of Health.

IX Appendix

The following are communications which the Committee has received thus far in respect to the President's Biomedical Research Panel. All but one endorses the need for such a Panel.

AMERICAN DENTAL ASSOCIATION,
Washington, D.C., March 5, 1974.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: The American Dental Association is pleased to have this opportunity to present its views on S. 3023. The sponsors of this bill are to be commended for their efforts to strengthen the research programs of the National Institutes of Health.

In recent years, an increased emphasis on certain areas of research such as cancer and heart disease has created a competitive climate in which other important research activities have suffered. In the case of dentistry, the National Institutes of Dental Research is the third oldest of the research institutes, yet it is still one of the smallest of any of the N.I.H. basic research components. The outstanding contributions made by this Institute, and the international recognition it has achieved, is in large measure the product of its dedicated scientists and administrators.

The American Dental Association is deeply concerned that ill-judged actions to economize in some research areas in order to accelerate the progress of other, more visible, research programs will exact a heavy payment on our future research efforts. For this reason, the Association endorses the concept of a Biomedical Research Panel to monitor the "development and execution" of all the biomedical research programs of the National Institutes of Health.

It is recommended, however, that in addition to the Chairman of the President's Cancer Panel, the membership of the Biomedical Research Panel be increased to a minimum of four other members. This would permit the appointment of a broader and more representative cross-section of the scientific community. In keeping with this, it is also recommended that membership on the panel be determined on the basis of scientific achievement in the health field. To accomplish this, line 7 on page 2 of the bill should be amended to read "of the panel shall be distinguished health scientists."

The American Dental Association will greatly appreciate your consideration of these comments and respectfully requests the inclusion of this letter in the hearing record.

Sincerely,

PAUL W. KUNKEL,
Chairman, Council on Legislation.

[TELEGRAMS]

BALTIMORE, MD.

Senator EDWARD KENNEDY,
Russell Senate Office Building,
Capitol Hill, D.C.:

The American Gastroenterological Association urges you to support the new proposal for a Presidential Bio-Medical Research Panel. The emphasis on cancer research in the past, although desirable, has been at the expense of general support of NIH and all other biomedical research.

ALBERT I. MENDELOFF, M.D.,
President, American Gastro Association.

NEW YORK, N.Y.

Senator EDWARD M. KENNEDY,
Capitol Hill, D.C.:

The American Heart Association supports the basic purpose of S. 3023, to establish a Presidential Biomedical Research Panel. There is a critical need for overview of the biomedical research program of the National Institutes of Health. While we are convinced of the necessity for increased Federal funding for cardio vascular research, we believe that this should not be accomplished at the expense of funding for other meritorious research projects.

To achieve the purpose of the legislation, however, it is absolutely essential that the panel be completely impartial. In addition, we in biomedical research hope that a mechanism can be found so that persons with the highest qualifications in the scientific community are appointed. We believe it would be unwise to impose any other specific conditions on membership.

RICHARD S. ROSS, M.D.,
President, American Heart Association.

AMERICAN NURSES' ASSOCIATION,
Kansas City, Mo., March 5, 1974.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Subcommittee on Health, Committee on Labor and Public Relations, New Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: The American Nurses' Association would like to express its support for provisions of S. 2893 to extend the National Cancer Act for three additional years.

It is imperative that this law be extended. Failure to do so would retard continued progress in the war on cancer and dissipate some of the potential benefits of knowledge already gained. Despite advances made in the treatment and management of this disease, great numbers of people still are affected. It continues to be one of the major causes of death in this country.

Nurses are acutely aware of the impact of cancer on both victims and their families. We want to emphasize the importance not only of continued and intensified research, but of the early application of research findings to bring the benefits as quickly as possible to patients and to potential victims of the disease.

In the final analysis, the justification for any such program lies in the progress it achieves toward conquest and cure. As nurses, we are constantly made aware of the human suffering caused by the various types of cancer.

Federal support for cancer research should, of course, in no way minimize the importance of other research programs. There are other diseases afflicting large numbers of people which require maximum attention of the federal government. Support of cancer research should not be at the expense of support for needed research in other areas.

We ask that this letter be made a part of the record.

Sincerely yours,

ROSAMOND C. GABRIELSON, M.A., R.N.,
President.

[MAILGRAM]

CHARLOTTESVILLE, VA.

Senator EDWARD KENNEDY,
Senate Office Building,
Washington, D.C.:

I think bill S. 3023 is an important step in assuring continued progress of national bio-medical research efforts.

K. R. CHRISPELL, MD.,
Member Association for Academic Health Centers.

ASSOCIATION FOR ACADEMIC HEALTH CENTERS,
Washington, D.C., February 28, 1974.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Subcommittee on Health, Old Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: On behalf of the members and Board of Directors of the Association for Academic Health Centers (AAHC), I wish to communicate to you the strong endorsement of our membership for passage of this bill S. 3023, the Biomedical Research Act of 1974. Inasmuch as this bill favors the establishment of a biomedical panel at the National Institutes of Health, similar to the Cancer Advisory Panel, we believe the integrity and creative productivity of research will be greatly enhanced by this measure.

To provide you with a better background of the nature of our support, I believe a brief description of our membership is in order. Membership in the Association is on an institutional basis. Only one person from each institution is qualified to participate in the AAHC. This person is the chief executive health officer of the institution with senior responsibility for *all* of the health educational programs of the institution.

In addition to the above membership category, persons responsible for state-wide systems of health education are also members. We have representation from 84 health sciences centers (an institution with a school of medicine, a teaching hospital and at least one other health school) in the United States.

The objective of the AAHC is to represent nationally the collective efforts of higher education devoted to producing the knowledge and skills necessary to meet the health needs of the people. Within this framework of commitment, we believe the establishment of a President's Biomedical Research Panel is most appropriate and essential to the continuing progress of national biomedical research efforts.

With best regards.

Sincerely yours,

EDMUND D. PELLEGRINO, M.D.,
President, AAHC,
Chancellor, University of Tennessee Medical Units.

ASSOCIATION OF AMERICAN MEDICAL COLLEGES,
Washington, D.C., March 1, 1974.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Senate Labor and Public Welfare Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The Association of American Medical Colleges supports the intent of legislation you recently introduced to establish a Presidential Biomedical Research Panel to monitor the progress of all National Institutes of Health and National Institutes of Mental Health research programs.

The Nation's biomedical research scientists have been disturbed by recent appointments to the NIH and NIMH Councils. In order to ensure that the Presidential Biomedical Research Panel is composed of individuals of stature, respected by the scientific community, we suggest the following changes to strengthen this legislation.

1. Appointment to the panel should be subject to the advice and consent of the Senate.
2. The legislation should require the President to solicit recommendations from the National Academy of Sciences for individuals to serve on this panel. This mechanism would ensure that the three scientific members of the panel will be individuals of stature within the scientific community.
3. The Association recommends that the activities of this panel should be subject to review by the Congress three years following enactment of the legislation.

The Association appreciates the opportunity to comment on this legislation.

Sincerely yours,

JOHN A. D. COOPER, M.D.

THE ASSOCIATION OF STATE
AND TERRITORIAL HEALTH OFFICIALS,
Washington, D.C., February 6, 1974.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing on behalf of the Association of State and Territorial Health Officials to express support for the enactment of the National Cancer Act of 1974, S. 2893, that you introduced on January 24, 1974.

This Association strongly endorses the increases proposed under section 5 of the bill that would increase the authorizations for appropriations for cancer control programs to $50 million in 1975, $65 million in 1976 and $85 million in 1977. Such funds are essential to our national effort to reduce the toll of cancer through prevention and early detection programs.

Let me take this opportunity to commend the National Cancer Institute for its effective leadership in the implementation of cancer control programs as authorized by the National Cancer Act. This Association is working very closely with the Institute in this endeavor.

With kindest regards, I am

Sincerely,

MAURICE S. REIZEN, M.D., *President.*

[TELEGRAM]

HOUSTON, TEX.

Senator TED KENNEDY,
Capitol Hill, D.C.:

S. 3024 is a very important step to assure continued progress in national biomedical research efforts I urge its adoption.

JOE MERRILL,
Executive Vice-President Baylor College of Medicine.

[MAILGRAM]

BOSTON, MASS.

Senator EDWARD KENNEDY,
Capitol Hill,
Washington, D.C.:

I support your bill, the Biomedical Research Act of 1974, because it is important to the continued progress of national biomedical research efforts.

RICHARD H. EGDAHL,
Director Boston University Medical Center.

COLLEGE OF PHYSICIANS AND SURGEONS
OF COLUMBIA UNIVERSITY,
New York, N.Y., March 1, 1974.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to support S. 3023 to establish a Bio-medical Research panel. Currently there is a lack of communication between the Executive Branch and the Bio-medical Research area.

Your bill will go a long way in establishing such communications.

Sincerely,

LOWELL M. GREENBAUM, Ph.D., *Professor.*

CORNELL UNIVERSITY,
Ithaca, N.Y., March 7, 1974.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to urge passage of bill S. 3023 which your committee has introduced to establish a President's Bioresearch Panel. As proposed, this panel would include the chairman of the President's Cancer Panel, and two additional members who are distinguished scientists or physicians. They would monitor developments and execution of biomedical research programs of NIH and report directly to the President. Such a panel is essential for preventing delays or blockades in execution of biomedical programs of NIH which need to be brought to the attention of the President and the Senate Labor and Public Welfare and House Interstate and Foreign Commerce Committees. Essential research programs in health must have assurance of continuous support and immediate action from the administration. The bill is an excellent idea and one we have needed for a long time.

Sincerely yours,

WILLARD J. VISEK, Ph.D., M.D.,
Professor of Nutrition and Comparative Metabolism.

[MAILGRAM]

DURHAM, N.C.

Senator EDWARD KENNEDY,
Capitol Hill, D.C.:

We support the new amendment to the cancer bill, specifically we believe that a national presidential Biomedical Research Panel is necessary to provide emphasis on the many important areas of Biomedical research. Although the recent emphasis on cancer research was necessary, we should recognize the need for a similar thrust in other areas of biomedical research which have an equal import to the Nation's health.

DR. M. P. TYORCHIEF,
Gastroenterology Department of Medicine Duke University.

[TELEGRAMS]

NEW YORK, N.Y.

Senator EDWARD KENNEDY,
Capitol Hill, D.C.:

DEAR SENATOR KENNEDY: Committee on National Medical Policy of the American Society for Clinical Investigation, wholeheartedly endorses S. 3023 providing for a President's Biomedical Research Panel. We deeply appreciate your supportive comments and constructive action.

NEAL S. BRICKER M.D.,
Chairman, Albert Einstein College of Medicine.

BRONX, N.Y.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.:

I would like to urge you to support S. 3023 to establish a Presidential Biomedical Research Panel. Such a prestigious group would serve to insure the continued growth and development of American biomedical research and training in all areas for the future benefits of mankind.

ERNST R. JAFFE, M.D.,
Acting Dean, Albert Einstein College of Medicine.

PHILADELPHIA, PA.

Hon. EDWARD KENNEDY,
Senator of Commonwealth of Massachusetts, Senate Office Building,
Washington, D.C.:

The Board of Trustees and Administration of Hahnemann Medical College and Hospital unanimously endorses your proposed Bio-Medical Research Act of 1974 (S. 3023) calling for the establishments of a President Bio-Medical Research Panel, similar to the Cancer Advisory Panel. We believe this bill will assure continued progress and integrity of America's bio-medical efforts in research.

WHARTON SHOBER,
President and Chief Executive Officer,
Hahnemann Medical College and Hospital.

PHILADELPHIA, PA.

Senator EDWARD KENNEDY,
Capitol Hill, D.C.:

The proposed biomedical research bill is of extreme importance to the advancement of medicine in the U.S. I give it my full support.

PETER A. HERBUT, M.D.,
President, Thomas Jefferson University.

[MAILGRAM]

PHILADELPHIA, PA.

Senator EDWARD KENNEDY,
Senate Office Building,
Washington, D.C.:

Biomedical Research Act 1974 (S. 3023) important step in assuring viability and continued progress in U.S. biomedical research.

THOMAS W. LANGFITT M.D.,
Acting Vice President for Health Affairs.

LOMA LINDA UNIVERSITY,
Loma Linda, Calif., March 5, 1974.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SIR: It has come to my attention that you have introduced a bill (S. 3023) to establish a Presidential Biomedical Research Panel in an endeavour to strengthen the program of the National Institutes of Health. May I indicate the support of our faculty here in this department of Loma Linda University for this bill and encourage you in your efforts to improve the support for the NIH programs.

As you are well aware, the NIH budget in recent years has been inadequate to fund many valuable research projects under way in the medical schools and other research institutions of this country. In our own department, funds for significant research in areas such as the safety of new carbamate pesticides, the problem of drug-induced anemia and the effects of chronic methadone administration on the physiology of the brain have been severely cut or eliminated even when approved by the NIH advisory committees. Congressional action to alleviate this unfortunate situation is most urgently needed.

Your concern for and interest in these problems is much appreciated.

Sincerely yours,

IAN M. FRASER, Ph. D.
Chairman and Professor.

LOMA LINDA UNIVERSITY,
Loma Linda, Calif., March 1, 1974.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to support your bill S. 3023 to establish a Presidential Biomedical Research Panel.

I am also urging my State Senators, Alan Cranston and John V. Tunney to support your bill.

Thank you.

Sincerely yours,

LAWRENCE D. LONGO, M.D.

LOMA LINDA UNIVERSITY,
Loma Linda, Calif., March 6, 1974.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: As a biomedical scientist and cancer researcher, I am extremely concerned about some of the changes in the approaches to solving the cancer problem which have taken place recently. The cancer problem is not an engineering problem, and therefore cannot be approached successfully with the same methods used to put man on the moon. To limit funds for cancer research to a few large institutions seems, to me, to be very short-sighted.

Bill S. 3023 establishing a Presidential Biomedical Research Panel has recently come to my attention. I want to go on record as supporting this bill. It should expedite the execution of biomedical research programs of the NIH. It would seem advisable to have five rather than three panel members.

Thank you for your interest in helping to find a solution to the cancer problem.

Sincerely,

ROBERT L. NUTTER, Ph.D., *Professor.*

[TELEGRAMS]

TOLEDO, OHIO.

Senator TED KENNEDY,
Capitol Hill, D.C.:

S. 3023 represents an important move towards establishing integrity and continued medical research.

M. C. ANDERSON, M.D.
President Medical College of Ohio.

NASHVILLE, TENN.

Senator EDWARD KENNEDY,
Capitol Hill, D.C.:

This telegram is sent to you in my support for your amendment to the national cancer bill (S. 3023) which I understand will come up for vote soon. I totally endorse it as well as many other persons in this academic and scientific community.

EDWARD G. HIGH,
Professor and Chairman,
Mehrry Medical College.

RICHMOND, VA.

Senator EDWARD KENNEDY,
Senate Office Building,
Capitol Hill, D.C.:

I think your Biomedical Research Act of 1974 (S. 3023) is an important step in assuring integrity and continued progress of national biomedical efforts.

M. PINSON NEAL, Jr., M.D.,
Medical College of Virginia.

WASHINGTON, D.C.

Senator EDWARD M. KENNEDY,
Capitol Hill, D.C.:

As former associate director for clinical care at NIH I greatly appreciate the importance of program balance at NIH and urge you agree to amendment to Cancer Act which provides for a President's biomedical research panel.

THOMAS CHALMER, M.D.
President, Mount Sinai Medical Center, New York City.

NEW YORK, N.Y.

Hon. EDWARD KENNEDY,
Labor and Public Welfare Committee, Dirksen New Senate Office Building, Capitol Hill, D.C.:

The National Hemophilia Foundation strongly supports the amendment to the Cancer Act which would provide for the creation of a Presidential Biomedical Research Panel while the President's Cancer Panel has been proven effective, it has created a distortion in funding at the National Institutes of Health. What is needed is a panel to determine the overall direction and priority for all of the institutes which will be provided for by this amendment.

ROY S. HEAVNER, *President.*

NORTHWESTERN UNIVERSITY,
Chicago, Ill., March 1, 1974.

Senator EDWARD KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I wish to express my support for the amendment to the Cancer Bill sponsored by Senators Javits, Schweiker, Beall and yourself.

The appointment of a policy-making panel for The National Institutes of Health will give direction and stability to biomedical investigation in this country. Both of these characteristics have been sadly lacking of late.

Once again, may I express my enthusiastic support for this amendment.

Sincerely yours,

MURRAY L. LEVIN, M.D.,
Associate Professor of Medicine.

OAK RIDGE NATIONAL LABORATORY,
Oak Ridge, Tenn., March 1, 1974.

DEAR SENATOR KENNEDY: I and my colleagues support your move, with Senator Schweiker, Javits, and Beall, to create a special panel to oversee the National Institutes of Health. Whether this remains as S-3023 or is attached to another bill is immaterial.

I am informing my two Senators, Howard Baker and Bill Brock, of my interest (and that of essentially every scientists here) and am urging their support of the bill.

Sincerely,

WALDO E. COHN,
Senior biochemist, Biology Division.

ROCHE INSTITUTE OF MOLECULAR BIOLOGY,
Nutley, N.J., March 6, 1974.

Senator EDWARD KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to indicate my support of your bill (S3023) to establish a Biomedical Research panel. This bill should do much to shorten the lag between scientific discovery and application to human medical care.

Yours sincerely,

B. L. HORECKER, *Professor.*

[TELEGRAM]

BOYNTON BEACH, FLA.

Senator EDWARD M. KENNEDY,
Capitol Hill, D.C.:

Although I favor stronger support for many areas of basic biomedical research and will for the reasons set forth in my testimony do all in my power to obtain such support, I have very serious reservations about the proposed legislation which would create a President's Biomedical Research Panel for the following reasons:

1. The Cancer Panel is a very unusual and unorthodox organizational arrangement that will only work effectively if it is reserved for unusual circumstances of extraordinary and specific priority as cancer research was felt to be. The Secretary of HEW could not be expected to accept this organizational anomaly for substantially increased areas of his basic responsibility;

2. The Cancer Panel has been an effective tool because the President has genuinely shared the priority it was designed to implement and the President has made his support of the Panel clear to all concerned. As an instrument to proposed the President's priorities the Panel would not in my opinion be effective. The Panel could easily be rendered ineffective without the President's strong and well publicized support;

3. By trying to extend the special emphasis that the Panel has helped to achieve for cancer to all areas of biomedical research we are more likely to lose the cancer priority to gain the same priority for a vastly extended area;

4. The effective discharge of the duties as Chairman of the President's Cancer Panel requires a very substantial portion of the time of the occupants of that position. The added duties envisaged by the proposed bill would make this a full-time job. Such a full-time person attempting to function outside the regular organizational set-up would be likely to become a nuisance who would soon lose his effectiveness;

5. In my opinion there is a better prospect of achieving the desired ends with the present set-up and a much better chance of continuing a vital and effective cancer program;

6. I made these views known to Lee Goldman and Jay Cutler before my departure. I assumed they will come as no surprise to you;

7. I am highly hopeful that with a little more time we can obtain the desired priorities with respect to other biomedical research with the present organization without risking the loss of the momentum in the cancer program by changing the set-up in mid-stream. I hope these views will be helpful in your deliberations.

Warm regards,

BENNO SCHMIDT.

SCRIPPS CLINIC AND RESEARCH FOUNDATION,
La Jolla, Calif., March 6, 1974.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The establishment of a Presidential Biomedical Panel (S. 3023) deserves considerable support. It is important to bring to the attention of the executive branch of the government solid information on the merits of biomedical research. Careful monitoring of the programs of the NIH will surely accomplish such a goal. Much of the painstaking efforts of the Congress to understand the benefits of research and the needs and problems currently facing the biomedical research community would hopefully through such a committee be transmitted to those in the administrative branch who are expert in methods of budget but not science. I would favor a panel consisting of five scientists rather than three, as is called for in the bill, which would be necessary to bring to the panel greater representation of so complex a body of information.

Sincerely,

CHARLES G. COCHRANE, M.D.

[TELEGRAMS]

STANFORD, CALIF.

Hon. EDWARD M. KENNEDY,
Old Senate Office Building,
Capitol Hill, D.C.:

DEAR SENATOR KENNEDY: I support provisions of S-3023 for a biomedical research panel and for other measures in support of a vigorous biomedical research program for this Nation.

CLAYTON RICH, M.D.,
Vice President for Medical Affairs,
Stanford University School of Medicine.

ALBANY, N.Y.

Sen. EDWARD KENNEDY,
Capitol Hill, D.C.:

Regarding the Biomedical Act of 1974, I think this bill is an important step in assuring integrity and continued progress of national bio-medical research efforts.

THOMAS W. MOU, M.D.,
Provost for the Health Science,
State University of New York.

PHILADELPHIA, PA.

Hon. EDWARD M. KENNEDY,
Senate,
Capitol Hill, D.C.:

Recent history underlines the importance of monitoring the execution of NIH research programs. The panel envisioned in your S-3023 would be an important step toward accomplishing that purpose.

PAUL TOKIN, M.D.,
Vice President and Provost Health Sciences Center,
Temple University.

[MAILGRAM]

NEW ORLEANS, LA.

Senator EDWARD M. KENNEDY,
Subcommittee on Health,
Washington, D.C.:

Please pardon the terseness of this communication but I only learned of the urgency of the following today. I wish to lend strong support to your move (Bills HR 12314 and S2893) to provide for a panel of five non-Federal representatives from the scientific community to review priorities and foster implementation of monetary support for bio-medical projects under Federal purvey.

JOHN H. PHILLIPS, M.D.,
Professor of Medicine, Tulane University.

[TELEGRAM]

BIRMINGHAM, ALA.

Senator EDWARD KENNEDY,
Capitol Hill, D.C.:

S-3023 establishing a Biomedical Research Panel would move toward continued effective national biomedical research. Urge support of this measure.

S. RICHARDSON HILL,
Junior Md/University of Alabama.

UNIVERSITY OF CALIFORNIA,
DEPARTMENT OF MOLECULAR BIOLOGY AND BIOCHEMISTRY,
SCHOOL OF BIOLOGICAL SCIENCES,
Irvine, Calif., March 6, 1974.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to you with regard to the formation of a Presidential Biomedical Research Panel, whose purpose would be to monitor the development and execution of biomedical research programs of the National Institutes of Health.

I am writing to you to indicate my support for the formation of this committee. I feel that it will expedite the movement of funds appropriated by the Congress to the NIH. I also feel it will expedite the proposed research programs, and will allow a more direct communication line on matters of the budget from the NIH, through the committee, to the President on a different vein than perhaps the head of the NIH, who is a Presidential appointee who may favor Presidential programs. This committee, I feel, would provide a second voice, which would help prevent manipulation of the National Institutes of Health and our own health care programs for political reasons.

Sincerely yours,

G. A. GRANGER,
Professor of Immunology and Microbiology.

UNIVERSITY OF CALIFORNIA,
SCRIPPS INSTITUTION OF OCEANOGRAPHY,
La Jolla, Calif., March 8, 1974.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing in appreciation of your efforts with regard to the introduction of Bill S3023, along with Senators Beall, Javits, and Schweiker, to establish a Presidential Biomedical Research Panel. For some time we in the biomedical research community have been concerned about the disproportionate influence exercised by the Executive, as compared with the Legislative, branch on Federal biomedical research programs. The Executive influence is wielded chiefly through the Office of Management and Budget, an agency with little if any of the scientific expertise needed to evaluate the programs over which it holds such power. Creation of a Biomedical Research Panel, as embodied in your bill, will ensure that informed scientific input is received both by the President and by appropriate Congressional committees. Although I would prefer to see a panel of five members, rather than the three mentioned in your bill, I very much hope that S3023 will pass and be implemented.

By copy of this letter I am conveying my sentiments to your cosponsors and to my own Senators.

Yours sincerely,

CHRISTOPHER K. MATHEWS,
Visiting Professor.

[MAILGRAM]

UNIVERSITY OF COLORADO MEDICAL CENTER,
Denver, Colo.

Senator EDWARD KENNEDY,
Senate Office Building,
Washington, D.C.:

Senate bill 3023 has strong support from the faculty and administration of the University of Colorado Medical Center, having served as the first director of the National Institute of Child Health and Human Development during your late brother's administration I have viewed with grave pain the decline of the National Biomedical effort. It is time to reestablish a strong bipartisan biomedical research policy.

Your bill can do this.

With best wishes for success,

ROBERT A. ALDRICH, M.D.,
Vice President for Health Affairs.

UNIVERSITY OF COLORADO MEDICAL CENTER,
Denver, Colo.

Senator EDWARD KENNEDY,
Senate Office Building,
Washington, D.C.:

We support the proposed amendment to the Cancer Act which would provide for the President's Biomedical Research Panel. The cancer program has expanded greatly as a result of the Concer Act but as a biomedical researcher we are concerned that this progress have been at the expense of other research programs. We need such a panel to provide a balanced view of the research needs and opportunities available to the NIH.

F. KERN, Jr., M.D.
F. SIMON, M.D.,
H. CLAMAN, M.D.,
V. OSTROWER, M.D.
W. BROWN, M.D.

UNIVERSITY OF SOUTHERN CALIFORNIA,
Los Angeles,, Calif., March 8, 1974.

Hon. EDWARD M. KENNEDY,
United States Senate,
Washington, D.C.

MY DEAR SENATOR KENNEDY: This letter is in support of your Bill S. 3023 to establish a Presidential Biomedical Research Panel. The development and execution of biomedical research programs have been substantially arrested. This stems, in part, from the low priority assigned to this human enterprise by the present administration. We believe it essential that the influence of the Office of Management and

Budget be counterbalanced by a panel of the type provided for in your bill.

Sincerely yours,

MAX HARRY WEIL, M.D.,
Director and Clinical Professor,
Medicine and Biomedical Engineering.

[TELEGRAM]

UNIVERSITY OF FLORIDA,
Gainesville, Fla.

Senator EDWARD M. KENNEDY,
Capitol Hill,
Washington, D.C.:

Continued effort in biomedical research is necessary in the quest for treatment and cures. We support bill S. 3023 as an approach to progressive legislation for research.

EDMUND ACKELL,
Vice-President for Health Affairs.

J. HILLIS MILLER HEALTH CENTER,
UNIVERSITY OF FLORIDA,
Gainesville, Fla., March 6, 1974.

Senator EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Old Senate Office Building,
Washington, D.C.

DEAR MR. KENNEDY: This letter is written in support of S. 3023 to establish a President's biomedical research panel. I think the scientific and health community is eager to best utilize funds made available to them for biomedical research. Every indication which we have received is that such a panel is needed and would expedite the efficient utilization of available funds.

Sincerely yours,

DON L. ALLEN, D.D.S., M.S.,
Interim Dean.

DIVISION OF SPONSORED RESEARCH,
UNIVERSITY OF FLORIDA,
Gainesville, Fla., February 28, 1974.

Senator EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: One of the severest frustrations that has faced those of us attempting to develop answers to pressing health problems has been the constrant stream of road blocks to biomedical research stemming from OMB actions. I interpret these as reflecting Administration attitude since actions speak louder than words.

The introduction of S. 3023 by Senators Kennedy, Beall, Javits, and Schweiker to provide a mechanism for monitoring the development and execution of biomedical research programs provides a way to develop a rational approach to the problem of maintaining factual input for presidential and congressional decisions. The present, almost capricious decision-making with regard to biomedical research could then be ended or exposed for what it is.

Your efforts in introducing and supporting this action are welcomed and appreciated.

Sincerely yours,

George K. Davis,
Director, Division of Sponsored Research.

C. V. Whitney Laboratory,
University of Florida,
St. Augustine, Fla., March 7, 1974.

Senator Edward M. Kennedy,
Chairman, Subcommittee on Health, Old Senate Office Building, Washington, D.C.

Dear Senator Kennedy: This is to express my support for S. 3023 which you have introduced. American biomedical science leads the world, and it would be a dreadful step backward if our forward thrust were to be blunted. Even though the advances in biomedical science have been spectacular over the past 20 years, it is only the tip of the iceberg that has been revealed. A number of quantum jumps in our knowledge of living processes are discernable—for example membrane phenomena, the three-dimensional structure and activity of huge macromolecules, neurobiological advances and their significance for understanding cell and organ behavior. We need this kind of information for better understanding of human disease.

I hope your efforts will be successful, for it will be tragic if support for fundamental research falters as it has been doing for the past few years.

Sincerely,

Samuel Gurin,
Director, Professor of Biochemistry.

J. Hillis Miller Health Center,
University of Florida,
Gainesville, Fla., March 1, 1974.

Hon. Edward M. Kennedy,
Chairman, Subcommittee on Health, Old Senate Office Building, Washington, D.C.

Dear Senator Kennedy: This is to applaud your introduction of S. 3023, and to express the wholehearted support of our faculty and administration for this bill. It would do much to insure the orderely implementation of legislative intent, with respect to biomedical research programs of the NIH. Naturally, it is the extramural portion of the NIH program that concerns us most, and I know that you are fully aware of the distressing cutbacks, slowdowns and phase-outs in research and research training programs in our medical schools that have been occasioned by impoundment and other administrative delaying tactics in recent years. Such delays can only be detrimental to the public health, as they postpone development of new knowledge necessary to control or prevent disease.

We strongly urge passage of the bill, and express our thanks to you for your initiative in this matter.

Sincerely yours,

CHANDLER A. SETSON, M.D., *Dean.*

UNIVERSITY OF ILLINOIS,
Urbana-Champaign, March 1, 1974.

To: Senators Kennedy, Beall, Javits and Schweiker.

From: F. A. Kummerow, Director, The Burnsides Research Laboratory.

Subject: Senate Bill S-3023. The Establishment of a President's Biomedical Research Panel.

I would like to express my support for S-3023. The research community is dedicated to the solution of health problems in the U.S.A. However, it cannot operate in a vacuum. I know from my own participation in volunteer health organizations, such as the Illinois Heart Association, that the general public understands the need for a continued and steady funding of research programs. This understanding at the grass roots level will support carefully thought-out decisions at the national level. The Office of the President needs the support that a distinguished panel of scientists can provide. The present dependence on the Office of Management and Budget for such guidance has not provided for an optimum research effort. S-3023 will be of benefit to the Congress, the Office of the President and the scientific community. We must all work in harmony in order to provide for maximum value from the funds that are provided for research programs.

UNIVERSITY OF KENTUCKY,
Lexington, Ky., February 28, 1974.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing in behalf of the Public Affairs Committee of the Federation of American Societies for Experimental Biology (FASEB) to support Senate Bill S. 3023. It has been apparent for a number of years that one of the impediments to the efficient use of the federal dollar in biomedical research has been poor communication among the administration, certain key Congressional committees, and the NIH. Objectives and motives are sometimes misunderstood, and, in the resulting confusion, time and money are wasted. The proposed President's Biomedical Research Panel would serve as a high-level coordinating body that would substantially reduce these kinds of waste. I therefore strongly endorse your efforts in behalf of S. 3023.

Sincerely,

HENRY R. HIRSCH,
Associate Professor.

[TELEGRAM]

WORCESTER, MASS.

Senator EDWARD KENNEDY,
Capitol Hill D.C.:

I urge your support of Senate bill Number 3023 at the subcommittee on health meeting on March 6th. The need for a President of Biomedical Research Panel and continuing support of basic research is clear and urgent. This will have direct effects on the health of the Nation.

R. W. BUTCHER, Ph. D.,
University of Massachusetts Medical School.

UNIVERSITY OF MIAMI,
Miami, Fla., February 28, 1974.

Senator EDWARD KENNEDY,
Subcommittee on Health,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: As a member of the American Federation for Clinical Research and a councillor of its Southern subsection, I urge your support of the current cancer legislation. Academicians consider passage of this bill which provides for independent scientific control immune from Federal (Presidential) influence for fund distribution as critical.

Thank you very much.

Sincerely,

GERALD S. LEVEY, M.D.,
Professor of Medicine.

[TELEGRAMS]

CHAPEL HILL, N.C.

Senator EDWARD KENNEDY,
Capitol Hill D.C.:

Senate 3025 constitutes an important forward step to protect and support national biomedical research efforts. I only hope it could be even stronger.

CECIL G. SHEPS, M.D.,
Vice Chancellor, Health Science,
University of North Carolina.

PITTSBURGH, PA.

Hon. EDWARD KENNEDY,
U.S. Senate, Senate Office Building,
Washington, D.C.:

I support your statesmanlike efforts to establish a President's Biomedical Research Panel which would provide real leadership for the Nation's biomedical research efforts.

F. S. CHEEVER,
Vice Chancellor Health Professions,
University of Pittsburgh.

DALLAS, TEX.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, D.C.:

Your bill entitled Biomedical Research Act of 1974 is vitally important to the preservation of a vigorous national biomedical research effort. Such a national effort is absolutely essential if this country is going to continue as a world leader in the health field.

CHARLES C. SPRAGUE, M.D.,
President, The University of Texas Health Science Center at Dallas.

THE UNIVERSITY OF TEXAS MEDICAL BRANCH,
Galveston, Tex.

DEAR SIR: I was just informed about bill S. 3023 and I want you to know that I consider this of extreme importance for the continuation of biomedical research. This is exactly what is needed and what is of utmost urgency now so many good projects get approved but not funded. My own project was for instance approved last November with an excellent critique but it has not been funded yet. In the mean time research was reduced due to the loss of technical help. My own future is in jeopardy since also my salary is paid from this grant. We do not know anymore where we stand due to these delays in funding. Action is indeed necessary.

Sincerely yours,

LUDDO B. NANNINGA,
Research Professor,
Department of Physiology and Biophysics.

[TELEGRAMS]

SYRACUSE N.Y.

Senator EDWARD M. KENNEDY,
Capitol Hill D.C.:

I support the Biomedical Research Act of 1974 (S-3023) as a means of strengthening integrity and further accomplishment in biomedical research.

LEWIS W. BLUEMLE, JR., M.D.,
President, Upstate Medical Center.

NASHVILLE TENN.

Senator EDWARD M. KENNEDY,
Capitol Hill D.C.:

I strongly support the national cancer bill S. 3023.

DR. ALLAN D. BASS,
Professor of Pharmacology, Vanderbilt Medical School.

NASHVILLE TENN.

Senator EDWARD M. KENNEDY,
Capitol Hill D.C.:

I firmly urge the passage of an amendment to the NCB S. 3023 to include the appointment of a Biomedical Review Panel to monitor this bill.

HARRY P. BROQUIST,
Professor Biochemistry, Vanderbilt University.

VANDERBILT UNIVERSITY,
Nashville, Tenn., March 1, 1974.

Hon. EDWARD M. KENNEDY,
Subcommittee on Health, U.S. Senate, New Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to indicate the importance I attach to the amendment I understand you plan to introduce on the Senate floor next week to the Bill to Extend and Amend The National Cancer Act of 1971 (S. 3023). The amendment, as I understand it, will create a panel of several individuals, drawn in large part from the scientific community, to review and oversee the overall funding of health science programs of the N.C.I., N.I.H., and N.I.M.H. This panel would report to both the President and the Congress and would be charged with maintaining balance and scientific diversity among the various programs. It would, therefore, be in a position to modulate significantly the increasing effort of the Executive Branch to politicize science. I want to commend you for introducing this legislation and to encourage you and your fellow Senators to resist what I suspect are strong efforts by the White House to defeat it on the Senate floor. I have talked to Mr. Dalrimple on Congressman Paul Rogers' staff, and he indicated that there would be little chance of further modifying their bill (H.R. 13053) in the full committee, but that he felt that, should your amendment pass, there would be little difficulty in incorporating it in conference.

Let me offer my appreciation for your continuing efforts on behalf of biomedical science and the health professions, and my best regards.

Sincerely,

DAVID N. ORTH, M.D.,
Director, Cancer Research Center.

[TELEGRAM]

NASHVILLE, TENN.

Senator EDWARD KENNEDY,
Capitol Hill, D.C.:

Strongly support your amendment to national cancer bill S. 3023, to establish Biomedical Research Panel to report to Congress and the President on NIH funding.

DR. OSCAR TOUSTER,
Professor and Chairman,
Department of Molecular Biology, Vanderbilt University.

UNIVERSITY OF WISCONSIN MEDICAL CENTER,
Madison, Wis., February 27, 1974.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: As a biomedical scientist who has been increasingly concerned about the fate of health research in the U.S.A., as well as in Latin America (see enclosed), I am most pleased to learn that you along with Senators Javits, Schweiker and Beall have introduced S. 3023, an amendment to the Public Health Service Act to strengthen the research programs on the National Institutes of Health. I have written to Senator Gaylord Nelson in this connection. Your amendment will be widely supported and applauded by the community of biomedical scientists as it represents a major step in insuring the integrity and renewed vigor of the National Institutes of Health which has been able until recently to foster an internationally renowned program of health research.

The partial separation of the Cancer Institute and the threats to further disintegration of the National Institutes of Health by the efforts to separate the Heart and Lung and Neurological Diseases Institutes have served to dishearten the biomedical community. Your amendment will go a considerable way in helping to reestablish the confidence of the biomedical scientists in the justifiable belief that their collective research efforts, if adequately supported, will contribute the basic knowledge, urgently needed for more effective diagnosis, treatment and prevention of not only cancer, and heart disease but also of arthritis, diabetes, and the many other ills of our citizens.

The enclosed report on Health Research in Latin America may be of interest to you. It reveals the difficulties which our sister nations in this hemisphere are facing in meeting their health research needs. The integrity and reinvigoration by more adequate financial support of the National Institutes of Health in their intra- and extramural research programs are essential not only to meet the needs and expectations of our own citizens, but also to serve as a model—and even as a source of support—for other countries, and in particular, Latin America.

Respectfully yours,

PHILIP P. COHEN,
Professor of Physiological Chemistry.

93D CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 93-954

NATIONAL CANCER AMENDMENTS OF 1974

MARCH 27, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 13053]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 13053) to amend the Public Health Service Act to improve the National Cancer Program and to authorize appropriations for such Program for the next three fiscal years, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

SUMMARY OF LEGISLATION

H.R. 13053 as reported provides a three-year extension of the National Cancer Act with total authorizations for fiscal years 1975-77 of $2,565 million for the National Cancer Program and $200 million for cancer control programs. The legislation also makes the following substantive modifications in the National Cancer Act:

1. Specifies that the director of the National Cancer Institute (NCI) may make research and training grants without national advisory board review having direct costs of up to $35,000.
2. Requires the director of NCI to collect, analyze and disseminate information on nutrition programs for cancer patients and the relationship between nutrition and cancer.
3. Requires use of training stipends, fellowships, and career awards for training relevant to cancer.
4. Requires the director to submit, with the NCI's budget, estimates of the personnel needed for the cancer program.
5. Removes the limitation of fifteen on the number of cancer research and demonstration centers which the NCI may support.

6. Provides the director of NCI with additional authority to employ experts and consultants, make grants for construction, alteration and renovation of research facilities, and disseminate and interpret new information concerning cancer.

7. Mandates in law peer review throughout NIH of grant applications and contract projects in a manner comparable to that presently done administratively for grant applications, and

8. Extends permanently the present, expiring authority for the Secretary of HEW to contract for research projects.

BACKGROUND

This proposed legislation provides new authority for the support of the National Cancer Program through a three-year extension of the National Cancer Act of 1971 (P.L. 92–218), and is a companion bill of S. 2893, introduced in the Senate by Mr. Kennedy on January 24, 1974. Hearings were held in the House on H.R. 12314, a bill similar to H.R. 13053, on February 5 and 6, 1974, and focused on the operation and effectiveness of the National Cancer Program; progress in cancer research; treatment and diagnostic methods made available to Americans since the passage of the National Cancer Act of 1971; new and improved techniques for delivering information to the biomedical community and to the public; how well the National Cancer Institute (NCI) organizational structure created by the 1971 Act has worked; and improvements which could be made in each of these areas. Almost all the testimony heard was supportive of the work accomplished by the National Cancer Program since the passage of P.L. 92–218 in December, 1971. In addition a Presidential message was introduced into the record reaffirming the President's commitment to a continued national effort against cancer. The legislation was considered by the Subcommittee on Public Health and Environment in open mark-up, introduced as a clean bill, H.R. 13053, and reported by unanimous voice vote. It was then considered by the Committee on Interstate and Foreign Commerce in open mark-up and reported by unanimous voice vote. It is cosponsored by the Chairman of the Committee and all members of the Subcommittee.

COST OF LEGISLATION

As reported by the Committee, H.R. 13053 provides for authorizations of appropriations for three fiscal years for the National Cancer Program as shown in the following table.

TABLE 1.—NEW OBLIGATIONAL AUTHORITY FOR FISCAL YEARS 1975–77 UNDER H.R. 13053

[In millions of dollars]

	Fiscal year—			
	1975	1976	1977	Total
National cancer program, sec. 410C of the Public Health Service Act	750	830	985	2,565
Cancer control program, sec. 409(6) of the Public Health Service Act	50	65	85	200
Total	800	895	1,070	2,765

These authorizations may be compared to the following recent program budgetary experience.

TABLE 11.—RECENT BUDGET EXPERIENCE

TABLE 11.—RECENT BUDGET EXPERIENCE OF THE NATIONAL CANCER PROGRAM

[In millions of dollars]

	Fiscal year—				
	1972	1973	1974	1975	Total
National cancer program:					
Present obligational authority	400.0	500.0	600.0		1,500.0
Appropriations	379.0	462.2	555.1		1,396.2
Obligations	378.0	425.7	[1] 555.1		1,358.8
Budget requests	372.2	428.2	466.0	555.0	[2] 1,266.4
Cancer control program:					
Present obligational authority	2.0	30.0	40.0		90.0
Appropriations	0	30.0	34.0		64.0
Obligations	0	5.5	34.0		39.5
Budget requests	0	4.0	34.0	45.1	[2] 38.0

[1] Includes funds impounded in fiscal year 1973 and released in fiscal year 1974.

[2] Total does not include fiscal year 1975 request so that it is comparable to the totals above it.

NEED FOR LEGISLATION

The National Cancer Program has progressed well since the passage of the National Cancer Act of 1971 and only a few changes are necessary to facilitate the full implementation of the Act. Cancer in its more than 100 forms constitutes one of the most devastating health problems of the American people. It is estimated that 655,000 Americans will develop cancer in 1974, and 355,000 will die. This makes cancer the second leading cause of death behind heart disease. Beyond an incalculable toll in suffering and family disruption, this disease produces an economic loss in the United States estimated at more than $15 billion annually. Yet the outlook is improving at a steadily accelerating pace. One out of every three persons who now have cancer can expect to be alive five years after treatment. There are one and a half million Americans who have had cancer but are now well. An additional one million cancer patients diagnosed and treated in the last 5 years are expected to live to join these ranks.

The National Cancer Act enlarged the authorities of the National Cancer Institute and the National Institutes of Health to conduct an expanded, intensified and coordinated National Cancer Program. This Program has two principal thrusts. The first is to speed the development of new knowledge by an intensive and coordinated research effort involving the broad scope of medical, biological, chemical and physical sciences. The second is to bring the most effective methods for the prevention and control of cancer to all the people of this nation through unprecedented demonstration and education efforts. This delivery of research results to the people uses the best of our present knowledge and will provide for the rapid application of new information as the National Cancer Program continues to gather momentum.

Even before the National Cancer Act was passed, investigators representing the U.S. scientific and medical community were brought together to begin planning a research strategy for the National Cancer

Program. The resulting plan, transmitted to the Congress by the President last year, sets forth research approaches needed for progress in the areas of cancer cause and prevention, detection and diagnosis, treatment, and rehabilitation.

It is not expected that a cure for cancer will be found in the space of a year or two—nor is it anticipated that there will even be a single cure for the many forms of cancer. Instead, scientists and physicians are exploring all promising avenues of research that may lead to identifying the causes of cancer, preventing cancer whenever possible, diagnosing cancer earlier and more accurately, and treating it more effectively. The host of individual advances all work toward the ultimate goal of preventing the occurrence of cancer, curing cancer when it does occur, and restoring former cancer patients to full and productive lives.

In 1971, the National Cancer Institute appropriation level was $233 million. In 1974, the appropriation level is $551 million, with an operating budget of $527,517,000. The Committee is in agreement with the Administration's emphasis on this program and their promise of future commitment.

Progress has been made in many areas. The international scientific community has been brought into the National Cancer Program, as called for by the Act, with research in 19 foreign countries being supported by the NCI. Further, the broad range of information programs envisioned by the Act have become operational to facilitate the exchange of scientific and medical information among scientists, physicians, other health professionals and the public.

The first thrust of the National Cancer Program is the development of new knowledge of cancer. As one facet of this the NCI has placed new emphasis on developing treatment methods that effectively use combinations of surgical, radiation, immunologic and drug therapy. In this area, the following examples illustrate the progress made under the auspices of the National Cancer Act of 1971:

> Half of those children with acute lymphocytic leukemia, a terrible cancer of the blood, now are alive five years after diagnosis when treated aggressively with radiation and a combination of anti-cancer drugs. Twenty years ago, this disease killed most of its victims within a few months and all of them within several years.
>
> Radiotherapy for the early stages of Hodgkin's disease, another cancer of the circulatory system, now produces five-year survival rates of more than 90 percent. This is compared to a 68 percent survivial rate for early Hodgkin's disease five years ago. A four-drug combination treatment for advanced Hodgkin's gives 65 percent survival after five years, a vast improvement over the survival rate of less than 10 percent five years ago.
>
> Patients with another form of lymphoma can achieve a five-year survival rate of 66 percent when this cancer is diagnosed early and treated with a combination of drugs. Five years ago, the rate was only about 20 percent.
>
> There are indications that breast cancer may yield eventually to a combination of drugs, surgery and radiation. Five-year survival rates for this disease, which kills more women than any other form of cancer, have remained near 60 percent for the past two decades. Scientists now have found significant decreases in

tumor size when advanced breast cancer patients are treated with any one of six drugs. Although these observations do not show any lenghtening of these patients' lives, they are essential first steps toward improved treatment for breast cancer in the future.

The National Cancer Institute screened more than 78,000 compounds for anti-cancer activity during 1972 and 1973, a significant increase from the approximately 15,500 compounds screened in 1971. Fifteen drugs received Food and Drug Administration approval in 1973 for experimental use against human cancers, after stringent tests by NCI with animals. Five drugs received similar approval during 1972.

Andrimycin, one particular experimental drug, has been found to have activity against a broader range of cancers than any other known drug. This includes breast cancer and lung cancer, the leading cancer killer among American men and now the third greatest cause of cancer deaths among women as well. Research now centers on developing less toxic forms of this promising drug.

Investigators at several institutions have shown that a person's immune system can be stimulated to defend against cancer and further research to develop this treatment approach is underway.

The treatment of cancer is more effective when the disease is detected in an earlier and more localized stage, and progress is also being made in the detection of cancer.

X-ray examination used in combination with physical examination in mass screening for breast cancer has resulted in a one-third reduction of the death rate from that disease over a five-year period among study populations.

A study of 18,000 persons over age 50 who had over the past 25 years received periodic examinations of the lower colon, and removal of polyps or other precancerous conditions showed that the rate of colon cancer among these individuals was only 15 percent of that expected if they had not been examined regularly.

Scientists are using immunologic techniques to detect cancer-related chemicals, or "markers," in the blood or urine of persons with cancer. One such marker, called carcinoembryonic antigen (CEA), may be useful in combination with other tests for early detection and follow-up of cancers of the digestive system, particularly colon cancer.

Advances in detection and treatment will cure or prolong the lives of cancer patients, but understanding the causes of cancer may lead to its prevention as well. Progress is also being made in this area.

The National Cancer Institute has significantly expanded its program to identify cancer-causing chemicals in the environment. Approximately 445 chemicals are now being tested in two-year and three-year studies with animals. The tests are under way at 20 laboratories, including the Frederick Cancer Research Center, converted by Presidential mandate from a biological warfare center, at Fort Detrick, Maryland.

Screening tests that may identify cancer-causing chemicals in as little as two weeks (normally a very time consuming process) are being developed by NCI scientists.

Research efforts have found asbestos increasingly as a pollutant in both air and water, and suggested that its apparent role as one cause of lung cancer may depend on the shape of asbestos particles rather than on their chemical nature.

Studies of cancer among various population groups has pointed to other causes of the disease. A hormone, diethylstilbestrol, used for a number of years to prevent miscarriage among pregnant women, has been linked with the occurrence of vaginal cancer in their daughters 15 to 22 years later. Other studies are finding relationships between dietary patterns and cancers of the digestive tract in Japanese migrants to Hawaii, California, and British Columbia.

No virus has yet been found to cause human cancer, but scientists are accumulating evidence of the association of several viruses with breast cancer, leukemia, cancer of the cervix, and other forms of cancer. A battery of highly sensitive biochemical and immunologic tests have been developed for this research. These tests have been used to show that at least two candidate human cancer viruses are instead of animal origin, important information which allows NCI to direct its resources elsewhere.

Totally new approaches for cancer control and prevention may ultimately emerge from fundamental research into the life processes of cells, and are presently being developed.

An artificial and potentially functioning gene has been synthesized for the first time. Years of further research may lie ahead, but scientists hope artificial genes can be used to learn how cancer starts—and how it can be stopped.

Genes direct the synthesis of enzymes that cells need to function. There is new evidence that several enzymes may appear only in cancer cells. If these enzymes are essential for the survival of cancer cells, blocking the enzymes may kill the cells while leaving normal cells unharmed.

Turning to its second thrust, the National Cancer Program has posted an excellent record in delivering research results to the people. The program is doing what can be done, now, for the cancer patient and those at risk of cancer.

Nine major medical institutions across the country have established Comprehensive Cancer Centers. Three pre-existing Centers of comparable scope have been strengthened. The remaining six Centers called for by the National Cancer Act will be in operation by July 1, and additional Comprehensive Centers are being planned. These Centers engage in the full range of basic and clinical cancer research. They train professional manpower required for the National Cancer Program. They assist other institutions in their surrounding areas in providing the best possible programs of cancer prevention, detection, diagnosis, treatment and rehabilitation.

The Cancer Control Program, also called for by the National Cancer Act, has been firmly established. This new Program is speeding the application of research advances through relatively short-term projects conducted in and out of major centers.

In cooperation with the American Cancer Society, 20 breast cancer detection projects have been established throughout the country. More than 100,000 women will be screened annually to find breast cancers in the earliest possible stage—when this leading cause of cancer death among American women is most curable.

A network of more than 100 community hospitals is being established to demonstrate effective new treatments for acute lymphocytic leukemia, Hodgkin's disease and non-Hodgkin's lymphomas.

Collaboration with the HEW National Clearing-house for Smoking and Health is aimed at reducing the number of cancers caused by smoking.

Several centers and hospitals are developing model cancer rehabilitation programs that can be replicated in community hospitals as well as the large centers for cancer care.

The National Cancer Institute also conducts and supports clinical research involving all 36 major forms of cancer. More than 20,000 patients, 1,600 physicians and 320 cancer centers and other hospitals throughout the country are participating in these programs. This is the frontline where gains are gradually being made in treating cancer. In addition, the participating physicians and hospitals are integral parts of the nation's medical care system, routinely caring for cancer patients not enrolled in studies. This integration of effort strengthens cancer care generally, and speeds research advances to all patients.

Although progress against cancer since the passage of the National Cancer Act of 1971 has been dramatic, the Committee feels that certain problem areas do exist which have tended to impede the National Cancer Institute's ability to conduct the program in the most efficient and effective manner. A major area of concern has been the failure of the Executive Branch to fund Congressional appropriation bills, through veto and impoundment. These practices have made the conduct of the National Cancer Program, as well as all of DHEW programs, tenuous and has caused delays in the implementation of many aspects of the National Cancer Program. The Committee further feels that:

(1) The NCI has been severely limited in its efforts to secure sufficient numbers of personnel to conduct its activities by reduced DHEW personnel ceilings and an inadequate number of supergrade positions. The original Congressional intent of Section 410(1) of P.L. 92–218 was to provide the National Cancer Program with 50 experts or consultants over and above the normal DHEW position ceilings for the National Cancer Institute. The intent of the law, in this case, has not been complied with.

(2) The Director, NCI, has been prevented from conducting a full range of communications, information and public affairs activities in support of the National Cancer Program because of the centralization of much of the responsibility to conduct these activities in the NIH and DHEW and accompanying 25% reduction in NCI public affairs personnel.

(3) There has been an insufficient number of NIH central staff to support the NCI as well as the other National Institutes. Examples of the types of central staff in short supply at NIH are nurses and other Clinical Center support staff, housekeepers, security personnel, and personnel for the renovation of facilities.

(4) The amount of time incurred between the submission of a

grant application or contract proposal and approval or disapproval is excessive. Improved regulations and streamlined procedures are urgently needed to facilitate the decision-making process in this area.

(5) The Director, NCI, has been limited in his authority under Section 410(c)(1) to award grants not exceeding $35,000 without review and recommendation of approval by the National Cancer Advisory Board, through a DHEW General Counsel decision that the $35,000 specified must include both direct and indirect costs. This decision significantly limits the number of approved grants the Director may choose to award and reduces the effectiveness of the original Congressional intent of this Section.

(6) The Director, NCI, has not been permitted to exercise the independent contracting authority given him in Section 410(7) of P.L. 92-218.

The Committee was distressed to learn that the NCI is unable to make grants for new construction, alteration, or renovation of basic research laboratory facilities. A further concern is any possible limitation of the number of new clinical cancer research and demonstration centers (Comprehensive Cancer Centers) that can be funded under section 408(a). The Act now calls for 15 new centers to be assisted and it was felt that this limitation severely restricts the National Cancer Program from carrying out its goal of demonstrating the latest methods of cancer diagnosis and treatment to health practitioners across the United States. Comprehensive Cancer Centers are not a medical delivery system nor are they expected to treat cases of cancer in their regions except when research is done as an adjunct to the Centers' research and demonstration programs. They are expected to be geographically evenly distributed to allow for a significant impact on the quality of cancer care throughout the nation through effective demonstration and outreach programs.

During recent years, the balance among NIH programs has been undergoing a dramatic shift. This shift is characterized by the support of certain categorical disease areas at what seems to be the expense of others, and the favored support of special initiative research programs (contracts) over individual investigator initiated research (grants). The Committee appreciates the difficulty of the NIH in maintaining a balance among its programs during this period of overall level of declining funding and has become increasingly concerned about the problems created by this trend. The following tables show appropriations for NIH by institute in first real and then constant (1965=100) dollars and make the problem of program balance visible.

TABLE III.—NATIONAL INSTITUTES OF HEALTH COMPARABLE APPROPRIATIONS, FISCAL YEAR 1965-75

[In thousands of dollars]

Institute or program	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	President's budget, 1975
National Cancer Institute	143, 429	157, 279	168, 458	172, 373	174, 509	181, 460	223, 633	372, 838	485, 317	551, 192	600, 000
National Heart and Lung Institute	115, 784	132, 331	154, 667	154, 141	153, 826	159, 195	182, 360	224, 389	290, 728	302, 915	309, 299
National Institute of Dental Research	19, 033	22, 492	26, 985	28, 229	28, 009	29, 120	33, 504	42, 366	45, 797	45, 565	43, 959
National Institute of Arthritis, Metabolism and Digestive Diseases	105, 224	115, 289	126, 912	130, 589	130, 985	134, 202	125, 095	145, 032	158, 082	159, 447	152, 961
National Institute of Neurological Diseases and Stroke	82, 085	95, 263	[1] 109, 397	94, 231	95, 466	96, 818	93, 647	111, 557	124, 434	125, 000	119, 958
National Institute of Allergy and Infectious Diseases	68, 667	77, 094	88, 934	95, 259	97, 729	94, 200	92, 329	103, 986	107, 640	114, 000	110, 404
National Institute of General Medical Sciences	108, 658	121, 562	138, 306	145, 984	149, 343	150, 875	146, 557	166, 358	175, 281	176, 778	168, 329
National Institute of Child Health and Human Development	39, 364	51, 125	60, 565	62, 967	67, 798	72, 400	89, 222	112, 515	125, 949	130, 254	124, 897
National Eye Institute				22, 040	22, 040	24, 142	28, 619	35, 555	36, 792	41, 631	39, 947
National Institute of Environmental Health Sciences	9, 181	15, 752	24, 054	16, 609	17, 154	17, 697	19, 361	25, 889	30, 364	28, 879	28, 684
Division of Research Resources	87, 635	96, 665	107, 880	122, 957	125, 753	131, 955	127, 149	130, 211	135, 791	133, 472	82, 700
Fogarty International Center	2, 462	2, 520	4, 464	3, 340	3, 390	3, 020	3, 732	4, 357	4, 666	4, 767	4, 784
National Library of Medicine	3, 858	9, 569	20, 090	19, 641	17, 889	19, 563	21, 430	24, 111	28, 488	25, 871	27, 738
Office of the Director	4, 984	5, 780	6, 107	9, 783	9, 783	10, 113	11, 074	11, 117	12, 618	12, 000	18, 124
Buildings and Facilities						1, 900		3, 565	8, 500	8, 000	3, 000
Total	790, 364	902, 721	1, 036, 799	1, 078, 143	1, 093, 674	1, 126, 660	1, 197, 712	1, 513, 846	1, 770, 447	1, 859, 771	1, 834, 784

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[1] Includes portion that established National Eye Institute.

TABLE IV.—NATIONAL INSTITUTES OF HEALTH COMPARABLE APPROPRIATIONS IN CONSTANT DOLLARS (1965=100),[1] FISCAL YEAR 1965–75

[In thousands of dollars]

Institute or program	1965	1966	1967	1978	1969	1970	1971	1972	1973	1974	President's budget, 1975
National Cancer Institute	143,429	153,010	158,803	156,220	150,894	148,738	175,069	282,882	349,652	372,578	388,727
National Heart and Lung Institute	115,784	128,739	145,802	139,696	133,010	130,488	142,759	170,250	209,458	204,755	200,388
National Institute of Dental Research	19,033	21,882	25,438	25,584	24,219	23,869	26,228	32,144	32,995	30,800	28,480
National Institute of Arthritis, Metabolism and Digestive Diseases	105,224	112,160	119,638	118,351	113,260	110,002	97,929	110,039	113,892	107,778	99,100
National Institute of Neurological Diseases and Stroke	82,085	92,677	[2] 103,127	85,401	82,547	79,359	73,311	84,641	89,650	84,494	77,718
National Institute of Allergy and Infectious Diseases	68,667	75,001	83,837	86,332	84,504	77,213	72,279	78,897	77,550	77,058	71,528
National Institute of General Medical Sciences	108,658	118,262	130,379	132,304	129,134	123,668	114,731	126,220	126,283	119,493	109,057
National Institute of Child Health and Human Development	39,364	49,737	57,074	57,066	58,623	59,344	69,847	85,368	90,741	88,045	80,918
National Eye Institute				19,975	19,058	19,789	22,404	26,976	26,507	28,140	25,881
National Institute of Environmental Health Sciences	9,181	15,324	22,675	15,053	14,833	14,506	15,157	19,643	21,876	19,521	18,584
Division of Research Resources	87,635	94,041	101,697	111,435	108,736	108,160	99,537	98,794	97,832	90,220	53,580
Fogarty International Center	2,462	2,452	4,208	3,027	2,931	2,475	2,922	3,306	3,362	3,222	3,099
National Library of Medicines	3,858	9,309	18,939	17,800	15,468	16,035	16,776	18,294	20,524	17,487	17,971
Office of the Director	4,984	5,623	5,757	8,866	8,459	8,289	8,669	8,435	9,091	8,111	11,742
Buildings and Facilities						1,557		2,705	6,124	5,408	1,944
Total	790,364	878,219	977,375	977,110	945,676	923,492	937,617	1,148,593	1,275,538	1,257,112	1,188,717

[1] Using implicit GNP price deflators.

[2] Includes portion that established NEI.

Several comments on these tables are appropriate. First, it is important to notice the major effects that inflation has had on the availability of real resources to the NIH. Between 1965 and 1975 the total NIH budget has increased from $790 million to $1,834 million. However, in constant dollars this has represented an increase to only $1,188 million, certainly not as much growth as the real dollar figures would suggest. Second, it is interesting to note that in constant dollars both the cancer, and heart and lung programs had diminishing real resources between 1967 and 1970. This suggests a large part of the underlying reason why the Congress enacted special legislation to support these two institutes. The effect of this legislation is obvious in that both institutes have had major increases in their real resources since the enactment of their legislation. The effect in the case of cancer has been more marked than that in the case of heart and lung diseases, which after a real boost in 1972 and 1973 apparently is again beginning to lose ground. For the rest of NIH available constant dollars have in fact been decreasing since the latter part of 1971 with a uniform loss by all institutes of real resources to inflation.

If the selection of a number of research programs for increased funding (cancer and heart being the largest cases) continues the result will be to severely limit the NIH's capabilities to effect a program balance so vital to the success of biomedical research. Biomedical research has reached the stage today that there are no longer sharp dividing lines between the various diseases and research disciplines. It was stated by numerous witnesses that there will be important contributions to cancer from basic biomedical research aimed at other diseases, and that there will also be important contributions for other disease areas from cancer research. But it is also true that a great deal of the increased funding for these institutes is expected to be devoted to such highly focused activities that such cross-fertilization will be minimal. Therefore, the Committee takes the position that this country cannot afford to reduce the research efforts of other NIH Institutes and urges a higher priority to budget increases for all of NIH. Also, because it is estimated that in constant dollars the total allocations for investigator-initiated programs (grants) has declined by 10% since FY72 while expenditures for contract support at NIH for the same time period increased 16%, it is recommended that this trend be reversed and support stabilized for projects initiated by individual investigators.

The Committee is deeply concerned about the lack of support by the Executive Branch for the training grant and fellowship program. It is absolutely essential that the training of scientists, researchers and physicians go forward in all areas of biomedical research, cancer as well as other areas. When the high cost of medical care in this country is examined, it becomes clear that we cannot afford to economize on the effort to produce the people who will make the discoveries that will facilitate prevention or simplify cure.

PROPOSED LEGISLATION

The Committee feels it is appropriate to extend the authorizations of the National Cancer Act to assure the continuance of the national program against cancer. The Members are particularly concerned that the activities of the National Cancer Program proceed uninterrupted and with a maximum flexibility of effort. Therefore, the Committee has recommended minimum changes in the law and a general three-year extension. While it is pleasing that there has been significant progress against cancer since the passage of the National Cancer Act of 1971, nevertheless, as with most major program expansions, there have been some problems and growing pains.

These are related primarily to the availability of certain types of personnel, the processing time for grants and contracts, the scope of the NCI's public information program and the contract authorities exercised by the Director of the NCI. In addition, the committee has also been concerned that past budgetary policies of the Administration have affected the budget for the cancer program. However, in contrast to the great strides which have been made, these problems are manageable. Further, the committee is heartened by the Administration's new policy in dealing with enacted appropriations. A number of modifications have been recommended to facilitate an improved cancer research effort. These include increasing the number of authorized supergrades for cancer experts from 50 to 100, removing indirect costs as a component of the $35,000 ceiling on non-Council approved grant awards, and removing the current limitation of 15 on the number of Comprehensive Cancer Centers authorized under the act. Moreover, the committee urges that the Director of the National Cancer program be allowed to exercise his full statutory authority relative to the contract process and public information activities.

With the proposed legislative and programmatic improvements, the NCI programs will be on an even more stable footing. Problem areas will be kept under close surveillance and will be brought to the attention of the House if continued difficulties with the expanded cancer research programs are encountered. The changes and accompanying committee recommendations which have been made are described below and in the section-by-section analysis in more detail.

Nutrition programs

The Committee heard testimony from the Candlelighters Association, which was confirmed by the Director of NCI, that the NCI's programs of support for nutrition were inadequate. Several specific projects to study the relationship between the nutritional status of cancer patients and their survival, and the relationship of diet to the cause of cancer were described. However, indications were given that the NCI has not mounted a general program of collection and dissemination to people concerned with cancer and afflicted by it of information about the relationship between nutrition and cancer. For this reason the proposed legislation contains an amendment designed to encourage the Cancer Institute to improve its performance in these areas. The amendment will require the Institute to gather information on the relationship between nutrition and cancer and the roll of nutrition in the treatment of cancer patients and then to make this information generally available to all those who would be interested in or aided by it.

Increases in authority for the NCI

The Committee heard testimony, described above under "Need for Legislation," that there have been a variety of areas in which the legislation presently gives inadequate authority to the director of the NCI for the effective operation of the National Cancer Program. In some cases the need is for more legislative authority while in other cases the need is for a more explicit direction that the NCI be allowed to function free of interference from the rest of HEW and the OMB.

Some evidence was presented to the Committee that the personnel available to the NCI has been inadequate in number and grade. Particularly the Committee was told that positions available to the NCI are on some occasions not being released by HEW for actual use by the Cancer Institute. For these reasons the legislation adds to the authority for the director of NCI to prepare and submit budget estimates, authority for him to include with the budget estimates of his personnel needs for the operation of the national cancer program. These budget and personnel estimates are to be submitted directly to the President for review and transmittal to the Congress. It is the Committee's hope and intention that positions made available to the NCI by the Appropriations Committees and by the OMB in response to its estimates of its needs will be made directly available to NCI by OMB. The inclusion of the requirement for specific personnel estimates in the budget is intended to make possible a public comparison of estimated needs and available resources. This public comparison should also make it possible to identify where the responsibility lies for any inadequacy in the number or quality of the personnel available to the NCI.

Second, the Committee was concerned that the interpretation by HEW of the provisions in the legislation which allow the Director of NCI to make direct grants without national advisory board review has been such as to limit this granting authority to less than the $35,000 direct cost limit intended in the original legislation. For this reason the legislation contains amendments specifying that the $35,000 amount applies to the direct rather than the direct and indirect costs associated with the grant. This is intended by the Committee to increase the effective amount of any grant which the Director of the NCI can make without national advisory board review.

Third, the legislation originally provided to the NCI authorizes the conduct of training for individuals concerned with cancer and the use of training stipends, fellowships, and career awards for this purpose. The original legislation includes a provision that this training is to be undertaken "where appropriate". This provision has been interpreted by HEW as allowing them to find that such training is never appropriate and therefore as allowing them to deny the NCI the opportunity to conduct such training. Since it was clearly the original legislative intent that such training be undertaken, the proposed legislation deletes the phrase "where appropriate" so that the director of NCI's authority for training is unambiguous and cannot be curtailed by HEW or OMB.

Fourth, the original legislation contains authority for the Director of NCI to hire up to 50 experts and consultants over and above any personnel ceilings and limitations placed upon him by HEW. Again, testimony was heard that the Director's authority in this regard has been circumscribed and that he therefore has been unable to obtain as many experts and consultants as the program could use. For this reason the legislation increases the limit on how many experts and consultants may be hired to 100. The Committee wishes to reiterate its intent that the director of NCI be unfettered in his use of this authority and that these positions not be considered in any personnel ceilings or allocations available to the NCI.

Finally, substantial testimony was presented to the effect that existing research facilities, especially those for research in biohazard control, are inadequate in number and in many cases outdated, run down, and in need of renovation. For this reason the legislation contains direct authority for the director of the NCI to make grants for the construction, renovation, or alteration of basic research facilities.

Comprehensive cancer centers

Impressive testimony was heard concerning the need and desirability for the National Cancer Program to have the flexibility to designate sufficient Comprehensive Cancer Centers to put into the mainstream of modern medicine information about new discoveries, new and improved methods of diagnosis, and new approaches to treatment that emanate from the research activities of the National Cancer Program. The outreach of the 15 new and 3 pre-existing Comprehensive Centers is insufficient to serve the entire United States. Such major cities as St. Louis, San Francisco, Philadelphia, Atlanta, New Orleans, Chicago, and many others are without Comprehensive Centers and the Committee therefore recommends striking the present limitation to 15 on new centers from the Act to permit the NCI to designate and support the growth of enough centers to place the vast majority of citizens in the United States within a reasonable distance of a Comprehensive Cancer Center.

Information programs

The NCI is presently involved in many crucial information programs. It answers more than 18,000 public inquiries a year. Many of these come from people with cancer seeking advice on where to find the best possible care or on their own appropriate handling of their disease. Others seek advice on how to prevent cancer. Many more would turn to the NCI if they knew that information of a kind that is often not available in their local communities could be obtained from the program. Many information programs are also operated to support researchers and practicing physicians. These include an International Cancer Research Data Bank and a Journal of the National Cancer Institute. On the other hand, the Committee heard some testimony that impressive and appropriate as these programs are, the NCI has inadequate resources and is doing an inadequate job of sharing with the research, professional, and public communities the results and discoveries of the cancer program which could be used to improve the prevention, treatment and rehabilitation of cancer.

For these reasons the legislation includes specific authority for the Director of the NCI to engage in the dissemination and interpretation of new and existing knowledge and information produced by the cancer program to the concerned communities including researchers, practicing physicians, and the general public. This new authority is not intended as a new Federal public relations program but rather as a mandate for the appropriate dissemination of new and existing knowledge to those who need to benefit from it. As such this authority and its exercise by the NCI should not be restricted or curtailed by HEW. The Committee is impressed that part of the reason why the NCI has been criticized for the inadequacy of its information programs is that these programs have been slowed and limited by the elaborateness of the reviews and approvals which must be sought for them in the bureaucracy surrounding the NCI. Since the Committee feels that these activities on the part of the NCI are crucial to the program and appropriate for it, it is intended that this limitation and interference by HEW will be stopped.

Peer Review of Grant Applications and Contract Projects

The Committee is aware that, under the Public Health Service Act the NIH institute advisory councils, composed of nonfederal scientific experts and laymen, make recommendations on funding awards for NIH or NIMH administered research grant applications. At the present time, although not required by law (except for the National Cancer Institute), grant applications are initially reviewed by peer groups of scientific experts (free of any conflict of interest) who evaluate the applications on the basis of scientific merit and make recommendations to the advisory council. Research and development contract projects administered by the NIH or NIMH are not required by law to undergo peer review. The Committee understands that the NIH has long used peer groups in a highly decentralized system for review of research contract proposals and has begun to establish a central referral and surveillance system on these reviews to capture data. These moves are expected to insure equity and high quality research throughout all operating elements of the agency.

The Committee has been told that the most significant component in the research contract process is deciding what should be investigated/developed, e.g., defining the "project." The term "project" is used by the NIH to define a circumscribed activity which (a) involves investigation designed to acquire new knowledge and/or mobilization of resources to support the acquisition of new knowledge and (b) involves one of the following: (1) a single contract, (2) a small number of contracts which are similar in scope and content, or (3) a small number of contracts which are interdependent. If project selection is well done, the succeeding steps are well within the scope of in-house competence: writing the RFP (Request for Proposals) and determining which performers submitting proposals are equipped (have the resources and technical competence) to perform the well defined and circumscribed tasks. Under prevailing practice, these tasks are defined in the project statement developed by the staff under the direction of the peer group. If the project cannot be well defined and the RFP seeks performers who will provide innovative approaches in a particular problem area, then a peer group is used to supplement in-house staff in the selection of the most meritorious proposals.

The Committee supports the existing peer review system and concludes that the peer review system of the NIH must be maintained and strengthened, and extended to cover review of the research and development contract projects. The Committee has therefore established a requirement in the legislation for peer review by assembled groups of qualified independent scientific experts of all grant applications and research and development contract projects administered by the NIH and the NIMH.

The provisions of the National Cancer and Heart Acts, allowing the Institute Directors to approve grants under $35,000 with peer review but without advisory council approval, would be retained in law [sections 402(b) and 419(A)(c) of the Public Health Service Act].

It is the intent that this new mandated peer review system use, to the maximum extent possible, existing mechanisms.

This is not a mandate to set up an entirely new peer review system, but rather to build upon the existing system. The Committee also intends that the prevailing methods of the existing system to avoid conflicts of interest among peers on the assembled groups be maintained.

The importance of the peer review process mandated in the new section 455 cannot be overemphasized. The very existence of biomedical and behavioral research of the magnitude now supported by the Federal government makes it essential that a system of research administration be specified. So far the most productive the United States has known, the present peer review system relies on spreading decisional responsibility throughout the recognized top ranks of United States biomedical and behavioral scientists.

The Committee does wish to note that despite the generally excellent results which the existing peer review system has produced, there has been some criticism that on occasion it operates in a manner which is unfair to individual researchers. It is hoped that the NIH in implementing the provisions of the new section will consider the extent and seriousness of such criticism and will take whatever steps are necessary to insure that a just and proper recourse is available to every unsuccessful applicant who wishes to appeal an adverse decision. In this connection the Committee feels that, if the present appeals mechanisms are determined to be insufficient, it would be appropriate to consider the creation of an independent appeals process through which scientists who feel that the peer review system has treated them inappropriately can seek redress of their grievances.

SECTION-BY-SECTION ANALYSIS OF H.R. 13053

Section 1.—Provides that the Act may be cited as the "National Cancer Amendments of 1974".

Section 2.—Amends section 402(b) of the Public Health Service (PHS) Act in two places. First, by striking "in amounts not to exceed $35,000" in paragraph 1 and inserting in its place "if the direct costs of such research and training do not exceed $35,000, but only". Second, by striking "in amounts exceeding $35,000" in paragraph 2 and inserting in its place "if the direct costs of such research and training exceed $35,000, but only".

Section 402(b) of the PHS Act contains the granting authority for cancer research or training grants for the director of the National Cancer Institute (NCI). It presently provides that he may make grants in amounts not exceeding $35,000 without the review and recommendation of the National Cancer Advisory Board prescribed by section 403(c) of the PHS Act, but must have such review and recommendation in making grants in amounts exceeding $35,000. In administering the provisions of this section, the Department of HEW has interpreted the $35,000 amount to include both direct and indirect costs associated with the making of a grant. This amendment clarifies the Committee intent that the $35,000 amount be interpreted to include only the direct costs of a grant. The amendment thereby increases the effective amount of a grant which can be made by the director of the NCI without review and recommendation by the National Cancer Advisory Board.

Section 3.—Amends section 407(b)(4) of the PHS Act by striking out "all data" and inserting in its place "information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer)".

Section 407(b)(4) of the PHS Act presently provides the director of the NCI with authority to collect, analyze, and disseminate all data useful to the cancer program. The amendment changes the phrase "all data" to "information", a term which the Committee considers both more general and more feasible than the term "all data". In addition the amendment adds to the Act specific reference to the collection of information concerning nutrition programs for cancer patients and the relationship between nutrition and cancer. It is intended that this amendment allow the program to explore both the role of appropriate nutrition in the treatment and rehabilitation of people with cancer and the role of nutrition in causing cancer.

Section 4.—Amends section 407(b)(7) of the PHS Act by striking out the phrase "where appropriate". Section 407(b)(7) presently provides the director of the national cancer program with authority to support the training of manpower for the national cancer program through the use of training stipends, fellowships, and career awards. As presently written this section indicates that training stipends, fellowships, and career awards are to be available to the director of the national cancer program "where appropriate." The Administration has recently announced that the use of these training devices is "never appropriate" and thereby denied them to the national cancer program. This was not the Committee's intent in including the phrase "where appropriate" and the present amendment underlines that intent by removing the qualifying phrase in order to assure that training stipends, fellowships, and career awards are always available to the national cancer program for the training of needed manpower.

Section 5.—Amends section 407(b)(9)(A) of the PHS Act by inserting after the phrase "budget estimate" the new phrase "(including an estimate of the number and type of personnel needed for the national cancer program)".

Section 407(b)(9)(A) provides authority to the director of the NCI to prepare and submit directly to the President for his review and transmittal to the Congress an annual budget estimate for the national cancer program. This amendment is designed to insure that the budget estimate includes an estimate not only of the dollar resources needed by the national cancer program, but also of needed personnel resources.

Section 6.—Amends section 408(a) of the PHS Act by striking out "15".

Section 408(a) of the PHS Act provides the director of the NCI with authority to establish centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. The section presently limits this authority to the establishment of 15 such centers and the suggested amendment removes this limit and allows the director to establish as many centers as he finds to be appropriate.

Section 7.—Amends section 409(b) of the PHS Act containing authorizations of appropriations for cancer control programs by authorizing appropriations in fiscal year 1975 of $50 million, 1976 of $65 million, and 1977 of $85 million.

Section 8.—Amends section 410 of the PHS Act concerning the authority of the director of the NCI in several respects. First, increases from 50 to 100 the number of experts or consultants whose services the director is authorized to obtain, if authorized by the National Cancer Advisory Board. Second, adds a new subparagraph 9 authorizing the director of the NCI to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to bio-hazard control, as he finds necessary for the national cancer program. Third, designates the existing section 410 as section 410(a) and adds a new section 410(b) authorizing the director of the NCI to provide and contract for a program to disseminate and interpret on a current basis, for practitioners and other health professionals, scientists, and the general public new scientific and other information respecting the cause, prevention, diagnosis and treatment of cancer. The new section 410(b) further provides that the director of the NCI shall include in the annual report required by section 410A(b) a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the national cancer program.

In increasing the number of experts and consultants available to the NCI from 50 to 100, the legislation responds to testimony heard that such increased resources would facilitate the work of the NCI. It is not intended that these additional experts and consultants be considered or included in the number of positions counted by the NCI against its position ceiling allocated from the Office of Management and Budget.

Similarly, the new authority for construction grants for either new construction or alterations or renovations of basic research laboratory facilities is responsive to testimony heard that there were an inadequate number of such facilities and that many such facilities were outdated and in need of modernization. The term "bio-hazard control" refers to the control of aspects of our environment which are likely to be hazardous to human biology. In the context of cancer, as here, the phrase would refer to programs designed to control man's exposure to or damage by chemicals, viruses, or forms of radiation which are likely to cause cancer. Some of the work currently being performed at the Frederick Cancer Research Center (the former Ft. Detrick in Frederick, Maryland) would constitute an example of bio-hazard control activities.

The new authority for the director of the NCI to provide or contract for a program to disseminate and interpret existing and new scientific and other information respecting cancer is responsive to the Committee's desire that the results of the national cancer program be made available as early and understandably as possible to all concerned communities. It is responsive to the often heard charge that the work of the NIH and its various institutes is not as generally available to practitioners and the public as would be desirable. The program called for is not intended to be a new public relations effort on the part of the bureaucracy but rather a more effective effort than that to date to make existing and new knowledge available throughout the nation. The requirement that the NCI's annual report include a report on the information programs conducted by the national cancer program and their costs should be understood to include a report on activities conducted under this section as well as sections 410(a)(8), 407(b)(4), and other authorities.

Section 9.—Amends section 410c of the PHS Act which authorizes appropriations for the national cancer program by authorizing appropriations for fiscal year 1975 of $750 million, 1976 of $830 million, and 1977 of $985 million.

Section 10.—Amends part G, containing administrative provisions, of Title IV of the PHS Act by adding a new section 445 to that part. Provides that the new section 455 shall be entitled "Peer Review of Grant Applications and Contract Projects". The new section 455 requires the Secretary of HEW to require appropriate scientific peer review of:

(1) applications made after the effective date of regulations implementing the new section for grants under the PHS Act for biomedical and behavioral research; and

(2) biomedical and behavioral research and development contract projects administered after such effective date. The scientific peer review is to conform to regulations which are to be prescribed after consultation with the Director of the NIH, and, where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse.

The regulations requiring scientific peer review are to the extent practicable to require that the review be conducted:

(1) in a manner consistent with the system for scientific peer review applicable on the date of enactment of this Act to applications for grants under the PHS Act for biomedical and behavioral research and to biomedical and behavioral research contract projects administered by the institutes listed above, and

(2) by peer review groups performing such review on or before such date. The members of any peer review group established under the regulations are to be individuals who by virtue by their training or experience are imminently qualified to perform the review functions of the peer review groups, and not more than one-fourth of the members of any peer review group established under the regulations are to be officers or employees of the United States.

Section 11.—Amends section 301(h) of the PHS Act providing authority to the Secretary of HEW for contracting for research by deleting the phrase "during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years."

The deletion of the quoted phrase has the effect of making the research contracting authority in section 301(h) a permanent authority for the Secretary of HEW.

AGENCY REPORTS

Agency reports have not been received on H.R. 13053 or any of its similar predecessors. However, the following letter from President Nixon to Secretary of Health, Education, and Welfare Weinberger indicates the administration's general support for the extension of the National Cancer Act contained in the legislation.

THE WHITE HOUSE,
Washington, January 29, 1974.

HON. CASPAR WEINBERGER,
Secretary of Health, Education, and Welfare,
Washington, D.C.

DEAR CAP: It has come to my attention that you will appear tomorrow at Senate hearings called to consider the extension of the National Cancer Act of 1971 when it expires on June 30. I want you to know that I strongly support an extension of this Act with whatever improvements might be made in consultation between the Executive Branch and the Congress.

I continue to have strong and continuing interest in this program. I remain just as committed to the attack on cancer as I was when I signed the original legislation on December 23, 1971. Our joint efforts with the Congress in this area have provided an excellent example of the ability of the Executive and Legislative Branches to work together in dealing with a major problem.

I have followed progress on the attack on cancer carefully. In addition, I have met with Benno Schmidt and other members of the President's Cancer Panel and have reviewed their report and the report of the National Cancer Advisory Board with great interest. It is my feeling that considerable progress has been made in the attack on cancer in recent years and that there is much hope for additional knowledge that can be developed in the future.

That is why I plan to ask for an additional $100 million above last year's request of $500 million for the expanded attack on cancer in the budget that I will be submitting to the Congress next Monday. I realize that this will result in spending over $415 million more for this effort next fiscal year than was available the year I took office, but I think the dual goals of an expanded research effort to find the causes of cancer along with more intensive demonstration and education programs to help prevent and control cancer warrant this support.

I hope you will share my strong interest in this program with the members of the Committee and express my appreciation for their past efforts in enacting the National Cancer Act of 1971.

Sincerely,

RICHARD NIXON.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * * * *

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATION

IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) * * *

* * * * * * *

(h) Enter into contracts [during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years], including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

* * * * * * *

TITLE IV—NATIONAL RESEARCH INSTITUTES

PART A—NATIONAL CANCER INSTITUTE

TO BE A DIVISION IN NATIONAL INSTITUTES OF HEALTH

SEC. 401. The National Cancer Institute shall be a division in the National Institutes of Health.

CANCER RESEARCH, AND SO FORTH

SEC. 402. (a) * * *

* * * * * * *

(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

(1) [in amounts not to exceed $35,000] *if the direct costs of such research and training do not exceed $35,000, but only* after appropriate review for scientific merit but without the review and recommendation by the National Cancer Advisory Board prescribed by section 403(c), and

(2) [in amounts exceeding $35,000] *if the direct costs of such research and training do not exceed $35,000, but only* after appropriate review for scientific merit and recommendation for approval by such Board as prescribed by section 403(c).

* * * * * * *

NATIONAL CANCER PROGRAM

SEC. 407. (a) The Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Program.

(b) * * *

* * * * * * *

(4) Collect, analyze, and disseminate [all data] *information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer)* useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

* * * * * * *

(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professions personnel, for participation in clinical and basic research and treatment programs relating to cancer, including [where appropriate] the use of training stipends, fellowships, and career awards.

* * * * *

(9)(A) Prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate *(including an estimate of the number and type of personnel needed for the National Cancer Program)* for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute.

* * * * * * *

NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

SEC. 408. (a) The Director of the National Cancer Institute is authorized to provide for the establishment of [fifteen] new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

* * * * * * *

CANCER CONTROL PROGRAMS

SEC. 409. (a) The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the diagnosis, prevention, and treatment of cancer.

(b) There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, [and] $40,000,000 for the fiscal year ending June 30, 1974, *$50,000,000 for the fiscal year ending June 30, 1975, $65,000,000 for the fiscal year ending June 30, 1976, and $85,000,000 for the fiscal year ending June 30, 1977.*

AUTHORITY OF DIRECTOR

SEC. 410. (*a*) The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Board), in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act, is authorized—

(1) if authorized by the National Cancer Advisory Board, to obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than [fifty] *one hundred* experts or consultants who have scientific or professional qualifications;

(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years;

(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(5) to accept voluntary and uncompensated services;

(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to
sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any *person, firm, association, corporation, or educational institution;* **[**and**]**

(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally**[**.**]**; *and*

(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program.

(b)(1) The Director of the National Cancer Institute may provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public new scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer.

(2) The Director of the National Cancer Institute shall include in the annual report required by section 410A(b) a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the National Cancer Program.

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 410C. For the purpose of carrying out this part (other than section 409), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; **[**and**]** $600,000,000 for the fiscal year ending June 30, 1974; *$750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30, 1976; and $985,000,000 for the fiscal year ending June 30, 1977.*

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PART G—ADMINISTRATIVE PROVISIONS

* * * * * * *

PEER REVIEW OF GRANT APPLICATIONS AND CONTRACT PROJECTS

SEC. 455. (a) The Secretary, after consultation with the Director of the National Institutes of Health, and, where appropriate, the Director of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse, shall by regulation require appropriate scientific peer review of—

(1) applications made after the effective date of such regulations for grants under this Act for biomedical and behaviorial research; and

(2) biomedical and behavioral research and development contract projects to be administered after such effective date through an institute established under this title, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse.

(b) Regulations promulgated under subsection (a) shall to the extent practical, require that the review required by the regulations be conducted—

(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of this section to applications for grants under this Act for biomedical and behavioral research and to biomedical and behavioral research contract projects administered by the institutes referred to in paragraph (2) of subsection (a), and

(2) by peer review groups performing such review on or before such date.

The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the groups and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

* * * * * * *

SEPARATE VIEWS OF THE HONORABLE JOHN D. DINGELL

PROGRAM BALANCE

During recent years the balance among NIH research programs has been undergoing a dramatic shift, characterized by the support of certain categorical disease areas at the expense of others, and the favored support of special initiative, or targeted research programs over individual investigator initiated research. This shift has resulted from a mixture of the always present pressure of the political process, the requirements of the orderly advancement of biomedical knowledge and the end of growth in the Administration's support for medical research. The NIH has been able to maintain a reasonable balance among its programs during periods of increasing overall support. Continuing this balance during periods of level or declining funding has been extremely difficult, for the advantage has been with the short-term, highly visible, publicly appealing programs. The essentially level budget for FY '75 proposed by the Administration for NIH with the large proposed increases in heart and cancer funding will contribute further to the shift in program balance that has been steadily occurring, unless the Congress addresses the issue of balance among research programs early in 1974, and establishes a position which accommodates an appropriate emphasis on targeted research and special initiatives but restores investigator initiated research efforts to a level more representative of the central role that they play in NIH's support of the entire spectrum of biomedical research activities.

These views will briefly examine the major issues involved in the question of program balance and suggest a more reasonable approach than that of the Administration. These views are being filed with the Committee's legislation supporting an attack on cancer because I strongly believe that, until the issues I will discuss are resolved, this kind of special disease legislation should be resisted. Such legislation, while supportive of a particular disease, of necessity robs other disease research efforts in a manner without rationale. Were cancer the only example I could hold my peace but recent years have also seen blindness, sickle cell anemia, diabetes, heart and lung diseases, digestive diseases, multiple sclerosis, Cooley's anemia, sudden infant death and aging played as variations on the same theme. Why not cystic fibrosis, Tay-Sach's disease, arthritis, hemophilia, birth defects, hypertension, or cirrhosis of the liver? The Committee would do better leaving the choice of research directions to scientists operating under carefully drawn legislative mandates and devoting its energies to assuring adequate support for those scientists.

CATEGORICAL DISEASE AREAS

In the past several years, opportunities for research progress have been accorded priority in certain categorical disease areas at the expense of others. The effect has been to accelerate the probability of achievement in the management of some diseases while at the same time slowing down the development of opportunities for progress in many other disease areas. Primary among the areas selected for intensified support are cancer and diseases of the heart and lung. Major initiatives in these areas are clearly warranted. In addition to these disease areas, however, there are many others in which human suffering and losses to the Nation's economy are severe and where the probability for significant research progress is also good. The issue is one of balance among programs which deal with the entire range of disease problems.

TRENDS

The following are some brief statistical highlights of recent trends in the NIH support of categorical disease areas. Note that all these figures would be much more disturbing if they were adjusted to show the effect of our continued uncontrolled inflation.

NIH RESEARCH SUPPORT

[Obligations in millions]

	1967	1970	1972	1973	1974[1]
Total, NIH research	1,021	1,038	1,475	1,483	1,532
Subtotal	320	326	597	673	765
National Cancer Institute	165	175	373	426	500
National Heart and Lung Institute	155	151	224	247	265
All other institutes and research divisions	701	712	878	810	767

[1] President's budget.

INDEX OF GROWTH IN NIH RESEARCH SUPPORT

	1967	1970	1972	1973	1974
Total, NIH research	1	1.02	1.44	1.45	1.50
Subtotal	1	1.02	1.87	2.10	2.29
National Cancer Institute	1	1.06	2.26	2.58	3.03
National Heart and Lung Institute	1	(.97)	1.45	1.59	1.71
All other institutes and research divisions	1	1.02	1.25	1.16	1.09

PERCENTAGE DISTRIBUTION OF NIH RESEARCH SUPPORT

	1967	1970	1972	1973	1974
Total, NIH research	100	100	100	100	100
Subtotal	31	32	40	46	50
National Cancer Institute	16	17	25	29	23
National Heart and Lung Institute	15	15	15	17	17
All other institutes and research divisions	69	68	60	54	50

The President's budget for 1974 called for an increase of $92 million over the 1973 level in the total for the Cancer and Heart Institutes. This was to be accompanied by a $43 million decrease in the remaining research activities of the NIH. Thus, almost ½ of the increase provided for Cancer and Heart Research was to be at the expense of other research activities. The NCI, which in 1967 accounted for 16 percent of the NIH research total, consumed about ⅓ of all NIH research activities in 1974. The share of the NHLI has remained approximately level over the 1967–1974 period, but that of the other research institutes and divisions has dropped from 69 percent in 1967 to only about 50 percent in 1974.

IMPLICATIONS

For fiscal 1975, the Heart and Lung Institute estimated its program needs at $365 million, an increase of $100 million over the 1974 level. The Cancer Institute has proposed a preliminary budget to the National Cancer Board at two levels, the lower of which was $610 million, an increase of $110 million over the 1974 level. If, in 1975, the research total for the NIH were held to the 1974 dollar level, this would bring the remaining I/RDs down to $557 million, a decline of 27 percent below the 1974 level. Cancer and Heart-Lung would then account for 64 percent of the research total of NIH while the remaining I/RDs account for 36 percent.

The problem of "program balance" presented here is not merely a question of aesthetics. It was never anticipated that the expanded programs in Cancer and Heart-Lung would be at the cost of the remaining biomedical research activities of the NIH. But this is precisely what seems to be happening. There is an overriding need to maintain the viability of the nation's fundamental biomedical research capability in all areas. Despite the fact that cancer and heart disease are major killers and have taken the center of the health research stage, there is strong evidence that significant unexploited research opportunities exist in all categorical areas and are growing. If the existing trend toward increasing research support to Cancer and Heart-Lung continues, the general effect on the nation's fundamental biomedical research capability will be harmful and a good deal of the previous investment in research in other areas will simply be lost.

No algorithm exists which leads either planners, managers or biomedical research experts to automatic agreement on what constitutes optimal program balance across the spectrum of diseases which comprise the NIH mission. In the absence of such a tidy pathway, reason and good judgment alone would indicate a violation of program balance when ½ or more of the Agency's resources are devoted to two disease areas. While it is undoubtedly true that some research supported by Cancer and Heart-Lung dollars will be on a fundamental level and may well have implications for other disease areas, it is also true that a great deal of the increased funding for these institutes is expected to be devoted to such highly focused activities that general spin-off will be minimal. In addition, the number of individuals afflicted each year by all the disease problems which NIH regards as central to its mission does not justify such a limited concentration of effort in certain areas at the expense of others.

SPECIAL INITIATIVES

A number of research programs selected by the Executive Branch or by Congress for increased funding have continued to receive preferential treatment even though the general funding conditions which obtained at the time of selection have changed substantially. These programs have not only been funded at accelerated rates but, during periods of financial stringency they have continued to prosper with relative impunity. In addition, items in budgets have frequently been earmarked for narrow, highly specified purposes. The effect has been an expansion of "uncontrollable" expenditures and a reduction of funds available for "discretionary" use. The implications of this pattern under a level effort budget for FY 1975, are clear—a continued reduction in discretionary funds for use in meeting research opportunities in numerous other program areas. The issue is essentially another facet of the question of program balance.

Those programs in such a favored position can be described collectively as special initiative programs or targeted research. Each may have somewhat differing characteristics but all enjoy a unique funding position primarily growing out of the political process. These programs address specific goals in problem areas usually of high public visibility. The emphasis is usually on applied problems and technical development, and they often involve large scale, costly efforts. If they are to be productive and not wasteful of money or manpower, they should only be undertaken when there is an adequate scientific base and the assurance of a high probability of success.

The programs involved in the major cancer and heart and lung initiatives are in this special initiative group. Other examples are the mandated programs dealing with dental caries, digestive diseases, child health, population/reproduction and aging.

TRENDS

[Dollar amounts in millions]

	1968		1973		Percent change 1968–73
	Amount	Percent	Amount	Percent	
Total NIH research	$1,044	100	$1,483	100	42
Special initiative programs, total	408	39	817	55	100
National Cancer Institute—National Heart and Lung Institute	336	32	673	45	100
Initiative programs	72	7	144	10	100
All other biomedical research programs	636	61	666	45	5

Special initiative programs have doubled over the 1968–73 period, while all other biomedical research programs have increased by about 5 percent. In 1973 discretionary programs accounted for 55 percent of all NIH biomedical research support, compared to less than 40 percent in 1968.

IMPLICATIONS

With the Administration's essentially level effort budget for FY 1975, continued preferential funding for these programs as in the past can only lead to a further loss by NIH of the discretionary funds so vital to pursuing the range of research opportunities that exist in many other important program areas.

I believe that special interest programs play an important role in this Agency's quest for the solutions to disease problems. However, during periods when NIH is directed to discharge its responsibilities under a level effort budget which provides for no real program growth, these programs should compete for the allocation of resources equally with other biomedical research programs focused on the broad range of other health problems within the NIH domain. The background leading to the identification and funding of special initiatives must be carefully weighed against all the conditions and factors which shape the biomedical research plan for a given period.

The acquisition of new knowledge and hence, progress in medicine depends on the contributions of the creative individual. The evidence is clear that major innovations of significant impact and broad applicability emerge largely from the work of individuals and small groups pursuing ideas arising out of their own experience and reflecting their personal creativity. There is no evidence to suggest that this will be less true in the future than it has been in the past, or that any other approach will increase the rate of important discoveries. Yet, investigator initiated research fares less well in nonscientific decision-making than other highly visible programs. Periods of fixed and/or declining resources exacerbate conditions to the extent that the base of excellent investigator initiated research is steadily eroded. A level effort budget emphasizes the need to examine the current status of investigator initiated research to consider the consequences of continued erosion and to establish a position more reflective of the central role that investigator initiated research plays in the NIH support of biomedical research.

INVESTIGATOR INITIATED RESEARCH

Investigator initiated research projects are an integral part of the great majority of research programs administered by the NIH. Such projects contribute to the entire spectrum of biomedical research from fundamental to applied. From investigator initiated research comes the innovations which are the basis of later developmental work. Innovations cannot be deliberately planned but occur when a creative individual is allowed to follow his own instincts. The investigator plans his research design very carefully in the light of existing knowledge, aiming for a high return of useful, important information on his investment of time and effort. NIH reviews all projects for scientific merit and program relevance and monitors and evaluates progress made. This is done regardless of whether the project was initiated by the investigator or by NIH and regardless of whether it is a part of a highly targeted program or not. While the investigator decides exactly what lead he is going to pursue, and how, NIH fits his work into the overall scheme and makes sure the program as a whole moves forward.

TRENDS AND IMPLICATIONS

Investigator initiated research projects have been steadily eroding over the past six years or so. In FY 1972, the most recent year for which complete data are available, funding for the Institutes and research divisions of the NIH was almost 50 percent greater than it had been for the same I/RD's in FY 1967. Funding for the investigator initiated programs of those I/RD's, however, was only 16 percent greater. Real growth, of course, was much smaller. In constant dollars it is estimated that the total I/RD programs increased by almost 16 percent. Funding for investigator initiated research, however, *declined* by 10 percent. The number of projects supported is down by one-fourth from 1967 levels and the number of principal investigators supported has dropped by one-fifth. If current trends remain unchecked during FY 1975, further erosion will occur.

During FY 1975, the NIH must check this trend and stabilize its support of investigator initiated research projects at levels consistent at least with those of 1972 with suitable adjustment made for the deflating effect of inflation. This recommendation reflects the high priority given to this activity because of the central role it plays in the majority of NIH programs, all of which have as their goal the management and resolution of disease problems]

CONCLUSION

The Committee's report contains two tables, tables III and IV, which show the budgets for the National Institutes of Health from 1965–1975, the first table in real dollars and the second table in dollars adjusted to show the effects of inflation. The report goes on to politely bemoan the negative effect which increased support for cancer and heart disease has had upon the rest of the NIH's institutes. Careful scrutiny of these tables will show that the real devastation of the other Institutes brought on by our support for cancer and heart disease research is much too severe to be polite about. In constant dollars every Institute except the NCI itself would have a decrease in its available real resources under the President's 1975 budget. Most of us have realized that NIH is no longer expanding. The truth is that except for NCI all of NIH is contracting. One cannot maintain an operation of the high quality which we have come to expect of NIH and diminish its resources at the same time. This loss of real resources and the lack of support from the Administration for the NIH certainly are two of the principal explanations for the essentially complete turnover of top staff which the NIH has experienced in the last year and a half.

It should be clear by now that my remarks are not intended as an attack on cancer, or on this legislation particularly. They are separate, not dissenting, views. The point is that the trends which I have decribed at the NIH are more important policy issues than is the adequacy or inadequacy of NIH's research on any one disease. The series of special disease bills which we have been writing represents an approach to the problems of the NIH comparable to trying to solve the ship Titanic's problem by repairing its lifeboats when the ship itself could be saved. The NIH would receive better attention from the Congress were we to deal directly with the real problems which I have described rather than continuing to exacerbate them.

93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 93-1164

NATIONAL CANCER ACT AMENDMENTS OF 1974

JUNE 27, 1974.—Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2893]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2893) to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

Title I—Extension of Cancer Program

SEC. 101. This title may be cited as the "National Cancer Act Amendments of 1974".

SEC. 102. Section 402(b) of the Public Health Service Act is amended—

(1) by striking out "in amounts not to exceed $35,000" in paragraph (1) and inserting in lieu thereof "if the direct costs of such research and training do not exceed $35,000, but only"; and

(2) by striking out "in amounts exceeding $35,000" in paragraph (2) and inserting in lieu thereof "if the direct costs of such research and training exceed $35,000, but only".

SEC. 103. Section 407(b)(4) of the Public Health Service Act is amended by striking out "all data" and inserting in lieu thereof "information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer)".

SEC. 104. Section 407(b)(7) of the Public Health Service Act is amended by striking out "where appropriate".

Sec. 105. Section 407(b)(9)(A) of the Public Health Service Act is amended by inserting "(including an estimate of the number and type of personnel needed for the National Cancer Program)" after "budget estimate".

Sec. 106. Section 408(a) of the Public Health Service Act is amended by striking out "fifteen".

Sec. 107. (a) Subsection (a) of section 409 of the Public Health Service Act is amended by inserting before the period at the end thereof a comma and the following: "including programs to provide appropriate trials of programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer".

(b) Subsection (b) of such section is amended by striking out "and" before "$40,000,000" and by inserting before the period at the end thereof a comma and the following: "$53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, and $88,500,000 for the fiscal year ending June 30, 1977".

Sec. 108. Section 410 of the Public Health Service Act is amended—

(1) by striking out "fifty" in paragraph (1) and inserting in lieu thereof "one hundred";

(2) by striking out "and" at the end of paragraph (7);

(3) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and";

(4) by adding after paragraph (8) the following new paragraph:

"(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program."; and

(5) by inserting "(a)" after "410." and by adding after paragraph (9) the following new subsection:

"(b)(1) The Director of the National Cancer Institute shall provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer.

"(2) The Director of the National Cancer Institute shall include in the annual report required by section 410A(b) a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the National Cancer Program."

Sec. 109. Section 410C of the Public Health Service Act is amended by striking out "and" before "$600,000,000" and by inserting before the period at the end thereof a semicolon and the following: "$750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30, 1976; and $985,000,000 for the fiscal year ending June 30, 1977".

Sec. 110. The part H of the Public Health Service Act relating to the appointment of the Directors of the National Institutes of Health and the National Cancer Institute is redesignated as part I, section 461 of such part is redesignated as section 471, and such part is amended by adding at the end the following new section:

"PEER REVIEW OF GRANT APPLICATIONS AND CONTRACT PROJECTS

"Sec. 472. (a) The Secretary, after consultation with the Director of the National Institutes of Health, and, where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall by regulation require appropriate scientific peer review of—

"(1) applications made after the effective date of such regulations for grants under this Act for biomedical and behavioral research; and

"(2) biomedical and behavioral research and development contract projects to be administered after such effective date through an institute established under this title, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse.

"(b) Regulations promulgated under subsection (a) shall, to the extent practical, require that the review of grant applications required by the regulations be conducted—

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of this section to applications for grants under this Act for biomedical and behavioral research, and

"(2) by peer review groups performing such review on or before such date.

"(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States."

Sec. 111. Section 301(h) of the Public Health Service Act is amended by striking out "during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years".

Sec. 112. (a) The first sentence of section 471 of the Public Health Service Act (as so redesignated by section 110) is amended to read as follows: "The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate; and the Director of the National Cancer Institute shall be appointed by the President."

(b) The amendment made by subsection (a) shall apply with respect to appointments to the office of Director of the National Institutes of Health made after the date of the enactment of this Act.

Sec. 113. Section 601 of the Medical Facilities Construction and Modernization Amendments of 1970 is amended by striking out "ending prior to July 1, 1974,".

TITLE II—BIOMEDICAL RESEARCH

SEC. 201. (a)(1) There is established the President's Biomedical Research Panel (hereinafter in this section referred to as the "Panel") which shall be composed of (A) the Chairman of the President's Cancer Panel (established under section 407(c) of the Public Health Service Act); and (B) six members appointed by the President who by virtue of their training, experience, and background are exceptionally qualified to carry out the duties of the Panel. At least five of the members of the Panel shall be distinguished scientists or physicians. The appointed members of the Panel shall be appointed for the life of the Panel.

(2) The President shall designate one of the appointed members to serve as Chairman of the Panel.

(3) Appointed members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel; and while away from their homes or regular places of business in the performance of services for the Panel, all members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(4) The Panel may appoint and fix the pay of such personnel as it deems necessary to carry out its duties.

(b) The Panel shall—

  (1) review and assess,

  (2) identify and make recommendations with respect to policy issues concerning the subject and content of, and

  (3) identify and make recommendations with respect to policy issues concerning the organization and operation of,

biomedical and behavioral research conducted and supported under programs of the National Institutes of Health and the National Institute of Mental Health.

(c)(1) Not later than the expiration of the 15-month period beginning on the first day of the first month that follows the date on which all of the appointed members of the Panel have taken office, the Panel shall submit simultaneously to the President and to the Congress a comprehensive report of (A) its findings made on the basis of the review and assessment conducted under clause (1) of subsection (b), and (B) the policy issues identified under clauses (2) and (3) of such subsection and the Panel's recommendations with respect to such issues.

(2) The Panel shall terminate upon the expiration of the 18-month period beginning on the first day of the first month that follows the date on which all of the appointed members of the Panel have taken office.

And the House agree to the same.

Harley O. Staggers,
Paul G. Rogers,
David E. Satterfield,
Peter Kyros,
Richardson Preyer,
James W. Symington,
William R. Roy,
Samuel L. Devine,
Ancher Nelsen,
Tim Lee Carter,
J. F. Hastings,
H. John Heinz III,
William H. Hudnut,
Managers on the Part of the House.

Edward M. Kennedy,
Harrison Williams,
Gaylord Nelson,
Thomas F. Eagleton,
Alan Cranston,
Harold E. Hughes,
Claiborne Pell,
Walter F. Mondale,
Bill Hathaway,
Richard S. Schweiker,
J. Javits,
Peter H. Dominick,
J. Glenn Beall, Jr.,
Bob Taft, Jr.,
Robert T. Stafford,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2893) to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Information Respecting Nutrition and Cancer

The Senate bill required the national cancer program in collecting, analyzing, and disseminating data to include, where appropriate, nutritional programs for cancer patients.

The House amendment changed the requirement that the cancer program collect, analyze, and disseminate "all data" useful with respect to cancer to a requirement that the program collect, analyze, and disseminate "information" useful with respect to cancer and include information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer.

The conference substitute adopts the provision in the House amendment.

Personnel for the National Cancer Program

The Senate bill required the President and the Office of Management and Budget to allocate to the National Cancer Institute all personnel requested by it to carry out the national cancer program.

The House amendment contained no comparable provision.

The conference substitute follows the House amendment. However, the conference committee noted its concern that the national cancer program and particularly, the clinical center of the NIH have been inadequately staffed; its desire that this be corrected in the future; and its expectation that, where the President, the Office of Management and Budget, or the Department of Health, Education, and Welfare do not make available to the cancer program the personnel which it has requested, they will offer justification for such a failure to provide needed personnel.

PROGRAMS OF ROUTINE EXFOLIATIVE CYTOLOGY TESTS

The Senate bill contained a requirement that the national cancer control program include programs to provide routine exfoliative cytology tests (Papanicolaou or Pap tests) conducted for the diagnosis of uterine cancer, and authorized for the cancer control program $7 million for this purpose for each of the fiscal years 1975 through 1977.

The House amendment contained no comparable provision.

The conference substitute requires programs to provide appropriate trials of such programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer. The conferees intend that of the sums authorized to be appropriated for each fiscal year for cancer control programs $3.5 million is to be considered as authorized to be appropriated for each fiscal year for trials of such programs.

Since controversy exists as to how routine exfoliative cytology tests in mass screening programs can be made effective, efficient, and cost-beneficial, the conference committee felt that it would be appropriate to require appropriate trials of such programs before finally authorizing additional amounts of Federal money for them. There is genuine uncertainty as to the frequency with which such tests should be conducted, which parts of the female population should be included in screening programs utilizing such tests, the settings in which the programs will be most effective, and the nature of follow-up of each positive or possibly positive smear which should be required. It is these questions which the conference committee is hopeful will be answered by large scale trials of the relative merits of various types of screening programs.

INFORMATION PROGRAMS OF THE NATIONAL CANCER INSTITUTE

The Senate bill contained a requirement that the Director of the NCI conduct or contract for programs to disseminate and interpret on a current basis, for practitioners and other health professionals, scientists and the general public, scientific and other information respecting the cause, prevention, diagnosis and treatment of the disease or other health problems to which the activities of the institute are directed. The director of the NCI was required to issue such regulations as proved necessary to carry out the requirement.

The House amendment contained a similar provision except that it was permissive rather than a requirement, applied only to new information rather than existing, did not require the director of the NCI to issue regulations, and did require the director to include in his annual report a report on the progress, activities and accomplishments of, and expenditures for the information services.

The conference substitute follows the House provision except that it is made a requirement rather than a permissive provision and to apply to both new and existing information.

PEER REVIEW OF GRANT APPLICATIONS AND CONTRACT PROJECTS

The Senate bill contained a requirement that the director of the NCI provide for proper scientific peer review of research contracts using, to the extent possible, appropriate peer review groups established within the NIH and composed principally of non-federal scientists and other experts in the scientific and disease fields.

The House amendment contained a similar provision except that it applied to grants as well as contracts and to all Institutes of the NIH, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse.

The conference substitute follows the House provision.

SENATE ADVICE AND CONSENT ON APPOINTMENT OF THE DIRECTOR OF THE NIH

The Senate bill contained a requirement that the Senate advise and consent to the appointment of the Director of the NIH.

The House amendment contained no comparable provision.

The conference substitute follows the Senate bill with the addition of language making it clear that the requirement applies only to appointments occurring after the date of enactment of the Act.

AVAILABILITY OF APPROPRIATIONS

The Senate bill contained a provision stating that notwithstanding any other provision of law, unless enacted after the date of enactment of the provision expressly in limitation of its requirements, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act were to remain available for obligation and expenditure until the end of such fiscal year.

The House amendment contained no comparable provision.

The conference substitute achieves the Senate policy by deleting from section 601 of the Medical Facilities Construction and Modernization Amendments of 1970 the expiration date, thereby making it a permanent provision of law.

PRESIDENT'S BIOMEDICAL RESEARCH PANEL

The Senate bill contained a requirement that there be established a President's Biomedical Research Panel with the following provisions:

(1) Composition—Five men including the Chairman of the President's Cancer Panel, four members appointed by the President, and at least three members who were distinguished scientists or physicians. The members were to be appointed with staggered terms and one of the appointed members was to serve as Chairman of the panel for a year at a time.

(2) Pay—Members of the panel were to be paid the daily equivalent of the rate for grade GS–18, and appropriate travel expenses.

(3) Meetings—The panel was to meet at the call of the chairman not less often than 12 times a year, with a transcript kept of the proceedings of each meeting and available to the public.

(4) Responsibilities and reports—The panel was to monitor the development and execution of the biomedical and behavioral research programs of the NIH and related institutes, report immediately on any delays or blockages in rapid execution of the programs, submit periodic progress reports and an annual evaluation of the programs' efficacy with suggestions for improvements to the President, and, at the request of the President, submit for his consideration names for consideration for appointment as Director of the NIH.

(5) Term—The panel was to continue in office permanently.

The House amendment contained no comparable provision.

The conference substitute requires the establishment of a President's Biomedical Research Panel with the following provisions:

(1) Composition—Similar to the Senate bill except that members will serve for the life of the Panel and one member, designated by the President, will serve throughout its life as its Chairman.

(2) Pay—Same as the Senate bill.

(3) Meetings—At the discretion of the Panel.

(4) Responsibilities—The Panel is to:

(*a*) review and assess,

(*b*) identify and make recommendations with respect to policy issues concerning the subject and content of, and

(c) identify and make recommendations with respect to policy issues concerning the organization and operation of, biomedical and behavioral research conducted and supported under the programs of the National Institutes of Health, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute of Drug Abuse.

(5) Report—Not later than 15 months after the appointment of the Panel, it is to submit a report to the President and the Congress of its findings made on the basis of its review and assessment of the biomedical research programs, the policy issues which it has identified, and its recommendations with respect to these issues.

(6) Term—The Panel is to terminate 18 months after the appointment of its members.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
PETER KYROS,
RICHARDSON PREYER,
JAMES W. SYMINGTON,
WILLIAM R. ROY,
SAMUEL L. DEVINE,
ANCHER NELSEN,
TIM LEE CARTER,
J. F. HASTINGS,
H. JOHN HEINZ III,
WILLIAM H. HUDNUT,

Managers on the Part of the House.
EDWARD M. KENNEDY,
HARRISON WILLIAMS,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
BILL HATHAWAY,
RICHARD S. SCHWEIKER,
J. JAVITS,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.,
BOB TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

Public Law 93-352
93rd Congress, S. 2893
July 23, 1974

An Act

To amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next three fiscal years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National cancer program, improvement.

TITLE I—EXTENSION OF CANCER PROGRAM

National Cancer Act Amendments of 1974.
42 USC 282 note.

SEC. 101. This title may be cited as the "National Cancer Act Amendments of 1974".

SEC. 102. Section 402(b) of the Public Health Service Act is amended—

85 Stat. 784.
42 USC 282.

(1) by striking out "in amounts not to exceed $35,000" in paragraph (1) and inserting in lieu thereof "if the direct costs of such research and training do not exceed $35,000, but only"; and

(2) by striking out "in amounts exceeding $35,000" in paragraph (2) and inserting in lieu thereof "if the direct costs of such research and training exceed $35,000, but only".

88 STAT. 358
88 STAT. 359

SEC. 103. Section 407(b)(4) of the Public Health Service Act is amended by striking out "all data" and inserting in lieu thereof "information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer)".

42 USC 286a.

SEC. 104. Section 407(b)(7) of the Public Health Service Act is amended by striking out "where appropriate".

SEC. 105. Section 407(b)(9)(A) of the Public Health Service Act is amended by inserting "(including an estimate of the number and type of personnel needed for the National Cancer Program)" after "budget estimate".

SEC. 106. Section 408(a) of the Public Health Service Act is amended by striking out "fifteen".

42 USC 286b.

SEC. 107. (a) Subsection (a) of section 409 of the Public Health Service Act is amended by inserting before the period at the end thereof a comma and the following: "including programs to provide appropriate trials of programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer".

42 USC 286c.

(b) Subsection (b) of such section is amended by striking out "and" before "$40,000,000" and by inserting before the period at the end thereof a comma and the following: "$53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, and $88,500,000 for the fiscal year ending June 30, 1977".

SEC. 108. Section 410 of the Public Health Service Act is amended—

42 USC 286d.

(1) by striking out "fifty" in paragraph (1) and inserting in lieu thereof "one hundred";

(2) by striking out "and" at the end of paragraph (7);

(3) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and";

(4) by adding after paragraph (8) the following new paragraph:

"(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program."; and

(5) by inserting "(a)" after "410." and by adding after paragraph (9) the following new subsection:

Information dissemination program.

"(b)(1) The Director of the National Cancer Institute shall provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer.

85 Stat. 782.
42 USC 286e.

"(2) The Director of the National Cancer Institute shall include in the annual report required by section 410A(b) a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the National Cancer Program."

42 USC 286g.

Sec. 109. Section 410C of the Public Health Service Act is amended by striking out "and" before "$600,000,000" and by inserting before the period at the end thereof a semicolon and the following: "$750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30, 1976; and $985,000,000 for the fiscal year ending June 30, 1977".

88 STAT. 359
88 STAT. 360
Ante, p. 135.

Sec. 110. The part H of the Public Health Service Act relating to the appointment of the Directors of the National Institutes of Health and the National Cancer Institute is redesignated as part I, section 461 of such part is redesignated as section 471, and such part is amended by adding at the end the following new section:

"PEER REVIEW OF GRANT APPLICATIONS AND CONTRACT PROJECTS

42 USC 289l-4.

"Sec. 472. (a) The Secretary, after consultation with the Director of the National Institutes of Health, and, where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall by regulation require appropriate scientific peer review of—

"(1) applications made after the effective date of such regulations for grants under this Act for biomedical and behavioral research; and

"(2) biomedical and behavioral research and development contract projects to be administered after such effective date through an institute established under this title, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse.

"(b) Regulations promulgated under subsection (a) shall, to the extent practical, require that the review of grant applications required by the regulations be conducted—

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of this section to applications for grants under this Act for biomedical and behavioral research, and

"(2) by peer review groups performing such review on or before such date.

"(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States."

79 Stat. 448;
84 Stat. 1308.
42 USC 241.

Sec. 111. Section 301(h) of the Public Health Service Act is amended by striking out "during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years".

SEC. 112. (a) The first sentence of section 471 of the Public Health Service Act (as so redesignated by section 110) is amended to read as follows: "The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate; and the Director of the National Cancer Institute shall be appointed by the President."

(b) The amendment made by subsection (a) shall apply with respect to appointments to the office of Director of the National Institutes of Health made after the date of the enactment of this Act.

Effective date.
42 USC 289l note.

SEC. 113. Section 601 of the Medical Facilities Construction and Modernization Amendments of 1970 is amended by striking out "ending prior to July 1, 1974,".

84 Stat. 353;
87 Stat. 95.
42 USC 201 note.

88 STAT. 360
88 STAT. 361

TITLE II—BIOMEDICAL RESEARCH

SEC. 201. (a)(1) There is established the President's Biomedical Research Panel (hereinafter in this section referred to as the "Panel") which shall be composed of (A) the Chairman of the President's Cancer Panel (established under section 407(c) of the Public Health Service Act); and (B) six members appointed by the President who by virtue of their training, experience, and background are exceptionally qualified to carry out the duties of the Panel. At least five of the members of the Panel shall be distinguished scientists or physicians. The appointed members of the Panel shall be appointed for the life of the Panel.

President's Biomedical Research Panel.
Establishment.
42 USC 289l-1 note.
85 Stat. 779.
42 USC 286a.

(2) The President shall designate one of the appointed members to serve as Chairman of the Panel.

(3) Appointed members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel; and while away from their homes or regular places of business in the performance of services for the Panel, all members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

Compensation.
5 USC 5332 note.
80 Stat. 499.

(4) The Panel may appoint and fix the pay of such personnel as it deems necessary to carry out its duties.

(b) The Panel shall—

(1) review and assess,

(2) identify and make recommendations with respect to policy issues concerning the subject and content of, and

(3) identify and make recommendations with respect to policy issues concerning the organization and operation of,

biomedical and behavioral research conducted and supported under programs of the National Institutes of Health and the National Institute of Mental Health.

Duties.

(c)(1) Not later than the expiration of the 15-month period beginning on the first day of the first month that follows the date on which all of the appointed members of the Panel have taken office, the Panel shall submit simultaneously to the President and to the Congress a comprehensive report of (A) its findings made on the basis of the review and assessment conducted under clause (1) of subsection (b), and (B) the policy issues identified under clauses (2) and (3) of such subsection and the Panel's recommendations with respect to such issues.

Report to President and Congress.

Termination. (2) The Panel shall terminate upon the expiration of the 18-month period beginning on the first day of the first month that follows the date on which all of the appointed members of the Panel have taken office.

Approved July 23, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 93-954 accompanying H.R. 13053 (Comm. on Interstate and Foreign Commerce) and No. 93-1164 (Comm. of Conference).

SENATE REPORT No 93-736 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 120 (1974):

Mar. 26, considered and passed Senate.

May 1, 2, considered and passed House, amended, in lieu of H.R. 13053.

July 9, House agreed to conference report.

July 10, Senate agreed to conference report.

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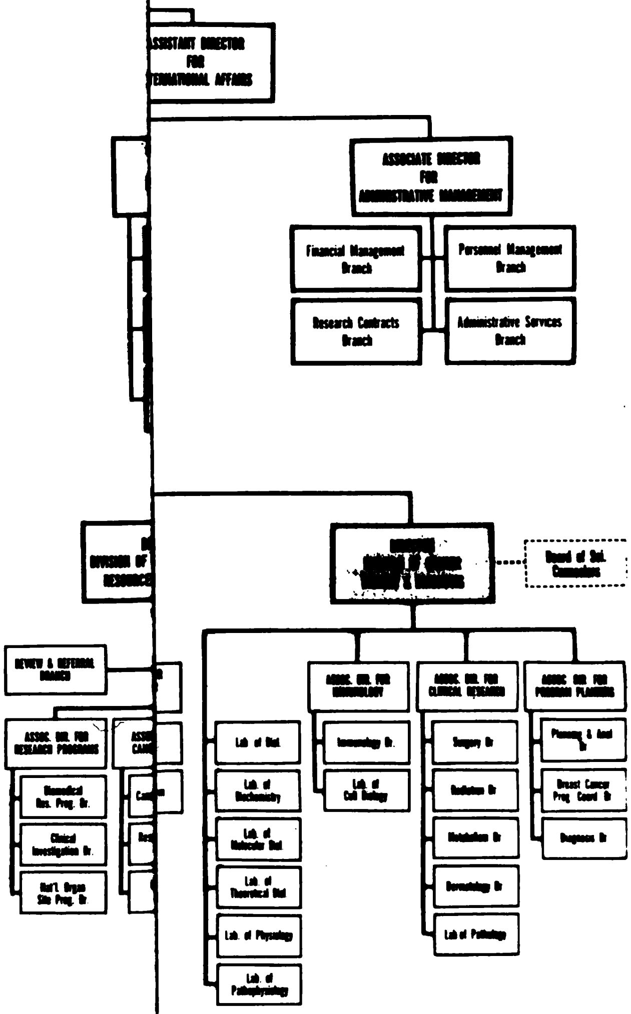
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Research efforts have found asbestos increasingly as a pollutant in both air and water, and suggested that its apparent role as one cause of lung cancer may depend on the shape of asbestos particles rather than on their chemical nature.

Studies of cancer among various population groups has pointed to other causes of the disease. A hormone, diethylstilbestrol, used for a number of years to prevent miscarriage among pregnant women, has been linked with the occurrence of vaginal cancer in their daughters 15 to 22 years later. Other studies are finding relationships between dietary patterns and cancers of the digestive tract in Japanese migrants to Hawaii, California, and British Columbia.

No virus has yet been found to cause human cancer, but scientists are accumulating evidence of the association of several viruses with breast cancer, leukemia, cancer of the cervix, and other forms of cancer. A battery of highly sensitive biochemical and immunologic tests have been developed for this research. These tests have been used to show that at least two candidate human cancer viruses are instead of animal origin, important information which allows NCI to direct its resources elsewhere.

Totally new approaches for cancer control and prevention may ultimately emerge from fundamental research into the life processes of cells, and are presently being developed.

An artificial and potentially functioning gene has been synthesized for the first time. Years of further research may lie ahead, but scientists hope artificial genes can be used to learn how cancer starts—and how it can be stopped.

Genes direct the synthesis of enzymes that cells need to function. There is new evidence that several enzymes may appear only in cancer cells. If these enzymes are essential for the survival of cancer cells, blocking the enzymes may kill the cells while leaving normal cells unharmed.

Turning to its second thrust, the National Cancer Program has posted an excellent record in delivering research results to the people. The program is doing what can be done, now, for the cancer patient and those at risk of cancer.

Nine major medical institutions across the country have established Comprehensive Cancer Centers. Three pre-existing Centers of comparable scope have been strengthened. The remaining six Centers called for by the National Cancer Act will be in operation by July 1, and additional Comprehensive Centers are being planned. These Centers engage in the full range of basic and clinical cancer research. They train professional manpower required for the National Cancer Program. They assist other institutions in their surrounding areas in providing the best possible programs of cancer prevention, detection, diagnosis, treatment and rehabilitation.

The Cancer Control Program, also called for by the National Cancer Act, has been firmly established. This new Program is speeding the application of research advances through relatively short-term projects conducted in and out of major centers.

In cooperation with the American Cancer Society, 20 breast cancer detection projects have been established throughout the country. More than 100,000 women will be screened annually to find breast cancers in the earliest possible stage—when this leading cause of cancer death among American women is most curable.

A network of more than 100 community hospitals is being established to demonstrate effective new treatments for acute lymphocytic leukemia, Hodgkin's disease and non-Hodgkin's lymphomas.

Collaboration with the HEW National Clearing-house for Smoking and Health is aimed at reducing the number of cancers caused by smoking.

Several centers and hospitals are developing model cancer rehabilitation programs that can be replicated in community hospitals as well as the large centers for cancer care.

The National Cancer Institute also conducts and supports clinical research involving all 36 major forms of cancer. More than 20,000 patients, 1,600 physicians and 320 cancer centers and other hospitals throughout the country are participating in these programs. This is the frontline where gains are gradually being made in treating cancer. In addition, the participating physicians and hospitals are integral parts of the nation's medical care system, routinely caring for cancer patients not enrolled in studies. This integration of effort strengthens cancer care generally, and speeds research advances to all patients.

Although progress against cancer since the passage of the National Cancer Act of 1971 has been dramatic, the Committee feels that certain problem areas do exist which have tended to impede the National Cancer Institute's ability to conduct the program in the most efficient and effective manner. A major area of concern has been the failure of the Executive Branch to fund Congressional appropriation bills, through veto and impoundment. These practices have made the conduct of the National Cancer Program, as well as all of DHEW programs, tenuous and has caused delays in the implementation of many aspects of the National Cancer Program. The Committee further feels that:

(1) The NCI has been severely limited in its efforts to secure sufficient numbers of personnel to conduct its activities by reduced DHEW personnel ceilings and an inadequate number of supergrade positions. The original Congressional intent of Section 410(1) of P.L. 92-218 was to provide the National Cancer Program with 50 experts or consultants over and above the normal DHEW position ceilings for the National Cancer Institute. The intent of the law, in this case, has not been complied with.

(2) The Director, NCI, has been prevented from conducting a full range of communications, information and public affairs activities in support of the National Cancer Program because of the centralization of much of the responsibility to conduct these activities in the NIH and DHEW and accompanying 25% reduction in NCI public affairs personnel.

(3) There has been an insufficient number of NIH central staff to support the NCI as well as the other National Institutes. Examples of the types of central staff in short supply at NIH are nurses and other Clinical Center support staff, housekeepers, security personnel, and personnel for the renovation of facilities.

(4) The amount of time incurred between the submission of a